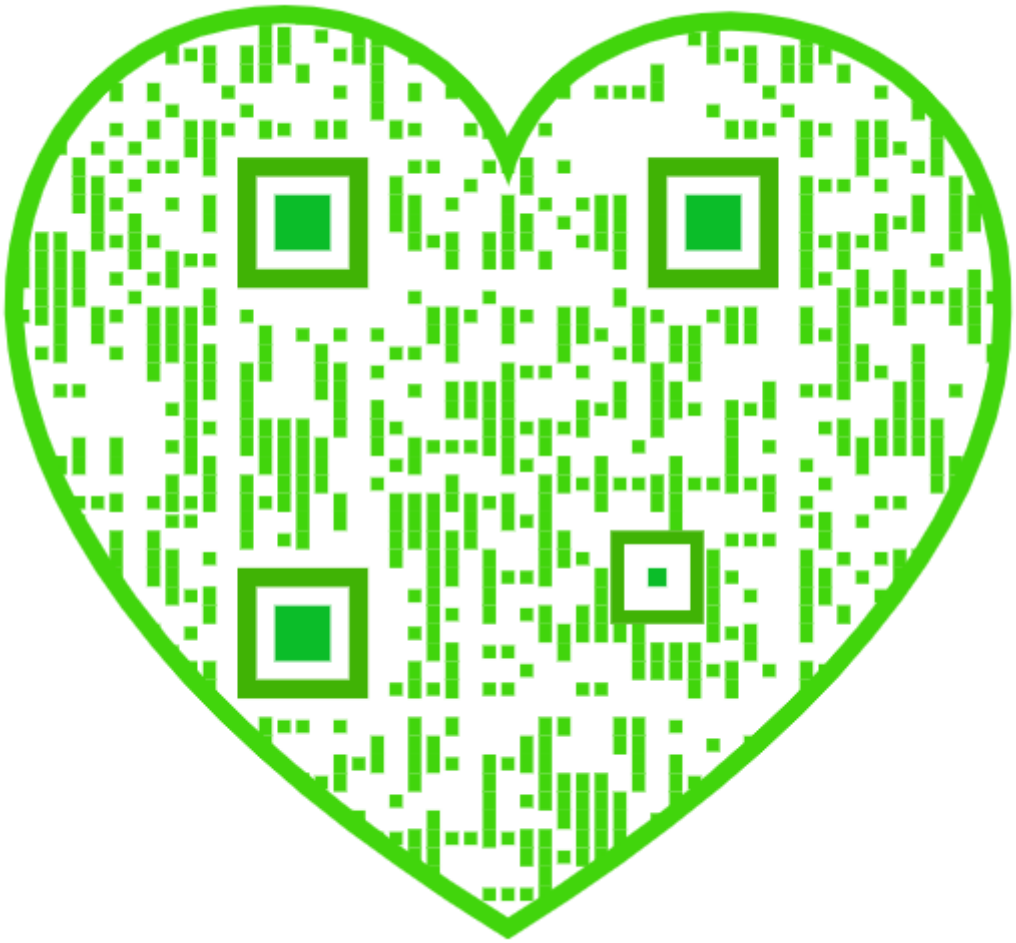

UNITED STATES CAPITOL BUILDING

# NATION AND STATE

## A TEXT-BOOK

ON

## CIVIL GOVERNMENT

BY

GEORGE MORRIS PHILIPS, PH.D.

PRINCIPAL OF THE WEST CHESTER STATE NORMAL SCHOOL

PHILADELPHIA

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# PREFACE.

A KNOWLEDGE of their own government is to any people a matter of the greatest importance, and to a self-governing people an absolute necessity. No need of education is more urgent than education for citizenship, and no course of study can properly fit young Americans for citizenship which does not include the study of their own government.

This text-book aims to explain to the boys and girls in the high schools and grammar schools, as well as in the higher classes of the ungraded public schools of the United States, how their country is governed. It aims to give such students just the knowledge of their government that they want and need for present and future use. Great care has been taken to make the subject clear and readily understood, without the sacrifice of accuracy or completeness, a task whose difficulty will be appreciated only by teachers of the subject.

The author believes that the government of the United States is most satisfactorily and thoroughly taught and learned by following the order of the Constitution. And he believes that a text-book on government should cover all the subjects in the Constitution. Teachers will generally prefer to decide for themselves what parts of the sub-

ject, if any, to omit with their classes. But to aid less experienced teachers two sizes of type have been used. It is suggested that less mature classes and those whose time is limited take up only the subjects discussed in the larger type, and in some cases it may be best to omit a part of that. When there is time for it, more mature classes may profitably add a part or all of the subjects in the smaller type. It is hoped that the subject has been treated so simply and clearly, yet so comprehensively, that by judicious selection on the part of the teacher the book will be found adapted to all grades in public and private schools that ordinarily use a text-book on this subject. It will be noticed that the text of the Constitution is always printed in italics.

The student is not led from the local to the national government, because local governments are so unlike in different parts of the country. In such a plan the town government would naturally be the starting point in New England. But south of New England its town is entirely unknown, as the township of that section is unknown in New England. Moreover, although theoretically one passes from the known to the unknown in beginning with his local government, practically the reverse is true. Everywhere people know more about their national government than they do about their local or State government, because books, magazines, and newspapers have made them measurably familiar with the one, but tell them little or nothing of the other.

The author desires to express his gratitude to Hon. Samuel W. Pennypacker, Governor of Pennsylvania; to Hon. Thomas S. Butler, member of Congress from the Seventh Congressional District of Pennsylvania; to Dr. Franklin S. Edmonds, of the Philadelphia bar, and formerly a dis-

tinguished teacher in the Central High School of that city; to Hon. J. Whitaker Thompson, United States District Attorney for Eastern Pennsylvania; to Thomas W. Baldwin, Esq., of the West Chester bar; to Prof. Smith Burnham, of the Department of History in the State Normal School, and to Miss Alice Cochran, the capable Librarian at the Normal School, for valuable help; and to the Rosenbach Company, of Philadelphia, by whose courtesy is reproduced their interesting engraving of the United States Supreme Court.

STATE NORMAL SCHOOL, WEST CHESTER, PA.

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## USEFUL BOOKS ON THIS SUBJECT.

These six books, at least, should be in the schools or the homes of all students of this text-book:

BRYCE. The American Commonwealth, abridged edition.
HARRISON. This Country of Ours; or,
DAWES. How We Are Governed.
JOHNSTON. American Politics.
Congressional Directory for current year. (Apply to Congressman for it.)
A State Handbook or Manual. (If published.)
The World Almanac for current year.

And as many of these as can be had will be useful to teachers and students for reading or reference:

ASHLEY. The American Federal State.
BANCROFT. History of the Constitution of the United States.
BRYCE. The American Commonwealth. Unabridged edition.
COOLEY. Principles of Constitutional Law.
CURTIS. Constitutional History of the United States.
DALLINGER. Nomination for Elective Office.
DEWEY. Financial History of the United States.
FISKE. The Critical Period in American History.
FOLLETT. The Speaker of the House of Representatives.
GOODNOW. Municipal Problems.
GORDY. History of Political Parties in the United States.
HADLEY. Railroad Transportation.
HAMILTON, JAY, MADISON, AND OTHERS. The Federalist.
HART. Actual Government.
HART. Formation of the Union.

HINSDALE. The American Government.
HISTORY OF THE UNITED STATES. One or more standard Histories.
HOWARD. Local Constitutional History.
JENKS. The Trust Problem.
LALOR. A Cyclopedia of Political Science.
MCCONACHIE. Congressional Committees.
MACDONALD. Select Documents.
MADISON. Journal of the Constitutional Convention.
OBERHOLTZER. The Referendum in America.
REMSEN. Primary Elections.
ROOSEVELT. American Ideals and Other Essays.
SCHOULER. Constitutional Studies.
STANWOOD. History of the Presidency.
TAUSSIG. Tariff History of the United States.
THORPE. Constitutional History of the American People.
WALKER. Making of the Nation.
WILCOX The Study of the City Government.
WILLOUGHBY. Rights and Duties of American Citizenship.
WILSON. Congressional Government.
WILSON. The State.
WOODBURN. The American Republic and its Government.
WOOLSEY. Introduction to the Study of International Law.
WRIGHT. Industrial Evolution of the United States.

# CHAPTER I.

## THE EARLIER GOVERNMENTS.

**The Colonies Start with Different Governments.** In 1776 thirteen English colonies in America united in adopting the Declaration of Independence. They were New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. They had been settled at different times from 1607, when the first settlers landed in Virginia, until 1733, when the settlement of Georgia began. The settlers in the various colonies differed greatly in the purposes which brought them to America, and in their views of government. These influences, together with the differences in the privileges and opportunities granted to the different colonies when they organized their governments, caused important differences in the governments of the various colonies. But these thirteen different governments may all be grouped into three classes: royal governments, charter governments, and proprietary governments.

**The Colonies with Royal Governments.** Virginia, New York, New Jersey, New Hampshire, North Carolina, South Carolina, and Georgia were royal colonies. Their Governors were appointed by the King of England. Each colony had a council, also appointed by the king, which advised and restrained the Governor and also formed the upper

House of the Legislature, the lower House being elected by the people. After laws had passed both Houses of the Legislature and been approved by the Governor, they had to be sent to the king for his approval. The judges were appointed by the Governors.

**The Colonies with Charter Governments.** Massachusetts, Connecticut, and Rhode Island had received charters, or constitutions, from the King of England. These gave them the right to elect their own Governors and their Legislatures. These colonies, therefore, made their own laws and governed themselves more fully than the other colonies. But they acknowledged the sovereignty of the King of England, and their laws could not be contrary to the laws of England.

The king and parliament claimed the right to change or annul these charters, and did so change the government of Massachusetts that for many years before the Revolutionary War its Governors were appointed by the king. The constant contention between Great Britain and these colonies over this question was one of the causes of the Revolution.

**The Colonies with Proprietary Governments.** Pennsylvania and Delaware were given to William Penn, and Maryland to Lord Baltimore. These proprietors, or their descendants, were the Governors of their colonies, or they appointed the Governors. The people elected Legislatures, which with the Governors made the laws for the colonies, but these had to be consistent with the laws of England.

New Jersey, North Carolina, and South Carolina were also proprietary colonies at first, but afterward became royal colonies.

**Looking toward a Union.** Until the English government began its encroachments upon their rights and privileges, the colonial governments were entirely independent of

each other. After the passage of the Stamp Act in 1765, delegates from nine of the colonies met in New York to consider the difficulties between the colonies and their mother country. They made no attempt to form a common government, but protested vigorously against the Stamp Tax and other grievances. The Stamp Act was soon repealed, but other obnoxious taxes and laws were imposed upon the colonies, and in 1774 another Congress of Delegates met in Philadelphia. All of the colonies but Georgia were represented. This Congress protested still more vigorously against the arbitrary acts of the British government, set forth the rights of the colonies, and recommended that they refuse to comply with the objectionable acts of Parliament. The Congress of 1774 did not form a common government for the colonies, but recommended that another Congress should meet the next year.

**The Colonies United in a Common Government.** All of the colonies sent delegates to the Congress of 1775, but when it met the Revolutionary War had already begun at Lexington. This Congress, now called the Continental Congress, at once took charge of the American cause and a few weeks later appointed Washington commander-in-chief of the army. The Continental Congress in 1775 first united the American colonies in a common government, by assuming and exercising such powers of government as were necessary to carry on the war.

**The Declaration of Independence.** On July 4, 1776, the Continental Congress issued the Declaration of Independence, which cast off British authority, changed the colonies into States, and made their union the United States of America.

**The Rule of the Continental Congress.** The Continental Congress was the only general government the country

had until 1781. It assumed control of the army and navy, dealt with foreign nations and the Indians, issued paper money, and established Post Offices. But it could collect no taxes and could only get either revenue or troops by appealing to the States to furnish them. Each State governed itself, and scarcely complied with enough of the suggestions and entreaties of Congress to enable it to carry on the war.

**Articles of Confederation Adopted.** The Continental Congress recognized its weakness, and, on the same day that it appointed the committee to draw up the Declaration of Independence, appointed another committee to prepare Articles of Confederation. But it was more than a year before Congress adopted the report of this committee, and the war was almost over before the last State adopted the Articles of Confederation.

When all the States had adopted the Articles of Confederation, the Continental Congress, which had lasted from 1775 until 1781, came to an end. Then a Congress chosen annually by the States, as provided by the Articles of Confederation, carried on the government, such as it was, until the government which we now have began, in 1789.

**Weakness of the Articles of Confederation.** Under the Articles of Confederation Congress had about the same powers as before, except that these powers were now authorized by a written agreement among the States, while before they had been exercised without such authority. There was no President or other executive except a feeble Congress. There were practically no national courts. Congress had no control of foreign commerce or of commerce between the States. And, worst of all, Congress could not

enforce the few powers which it was supposed to have. It could only appeal to the States for troops, money, or supplies, and if the States neglected or refused to respond to its appeals, there the matter ended.

**The Critical Period.** When the Revolutionary War was ended and the independence of the country was won, the national government broke down entirely. It could not maintain order; it could not keep its promises to other nations nor to its own citizens; it could not pay its debts. Sometimes for months there would not be enough members of Congress present to do any business. The country was almost ruined by the war and by the weakness and inefficiency of the national government. But the different States were so jealous of each other and so tenacious of their rights and privileges, that they would not strengthen the national government by giving up to it any of their powers. Washington and his fellow-patriots despaired at the deplorable condition of the country. The years between the close of the Revolutionary War and the adoption of our present government are commonly and properly known as "the critical period in American history."

## CHAPTER II.

### MAKING THE CONSTITUTION.

**The First Steps toward a Better Government.** In 1785 commissioners from Maryland and Virginia met in Washington's home at Mount Vernon, in order to plan joint regulations for the use of the Chesapeake Bay and other waters adjoining both States. Washington suggested that the commissioners should also recommend a uniform currency and uniform duties in the States. They did so, and the recommendation led the Maryland Legislature to suggest to Virginia that all the States be asked to send delegates to consider the question of uniform regulations for commerce. The Legislature of Virginia, acting upon this suggestion, requested all the States to send delegates to such a convention to be held at Annapolis in 1786.

**The Annapolis Convention.** Only five States had delegates at the Annapolis convention, too few to make worth while any recommendations as to commerce. But, at the suggestion of Alexander Hamilton, the convention did something much more important. It asked all the States to send delegates to a convention in Philadelphia the next year, to plan for strengthening the national government.

**The Convention which Drew up the Constitution. 1787.** In 1787 the convention which had been suggested at Annapolis met at Philadelphia, in the same room of the old State House in which the Declaration of Independence had been signed. All the States except Rhode Island sent delegates, and George Washington, one of the delegates from Virginia,

INDEPENDENCE HALL, PHILADELPHIA

was chosen president of the convention. For four months the convention worked and quarreled over their task behind closed doors, and then gave to the country what Mr. Gladstone, the great English statesman, has called "the most wonderful work ever struck off at a given time by the brain and purpose of man."

**The Members of the Constitutional Convention.** It is doubtful whether an abler body of men than the convention which framed the Constitution of the United States ever came together. As has already been said, George Washington was its president. Benjamin Franklin, Alexander Hamilton, James Madison, and James Wilson were his most famous colleagues. But there were many others who would have distinguished themselves in any company. Madison took the leading part in the work of the convention, and has sometimes been called the Father of the Constitution. John Fiske, the historian, says that the members of this convention contained "among themselves a greater amount of political sagacity than had ever before been brought together within the walls of a single room." The debt which the United States, and the whole world, for that matter, owes to these wise and patriotic men is well-nigh incalculable.

**Starting the New Government.** As we shall see later, the Constitution itself provided that when nine or more of the States had accepted the new Constitution, it should go into effect among those which had thus ratified it. Some of the States ratified the new Constitution promptly and with great unanimity. Others delayed ratification, and only after great struggles and by narrow margins accepted it. But in a year all of the States but North Carolina and Rhode Island had ratified. During the fall and winter of 1788–89 the other eleven States chose a President, Vice-President, Senators, and Representatives. The old Congress adjourned finally, and in the spring of 1789, in the city of New York, the new government began.

## CHAPTER III.

### THE PREAMBLE AND THE THREE DEPARTMENTS OF GOVERNMENT.

**The Preamble to the Constitution.** The Constitution begins with the following preamble:

*We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*

**The Constitution Made by the People.** This preamble or introduction to the Constitution is important for several reasons. It begins with founding the government of the United States on the will of the people. Many of the nations of Europe have constitutions which give their people a large amount of freedom and considerable share in the government, but these constitutions were in most cases given, generally unwillingly and as forced concessions, by kings who once were absolute monarchs and governed their peoples as they pleased. But this preamble expressly declares that the Constitution of the United States is "ordained and established" by the people who are to be governed by it.

**The Preamble Gives the Purpose of the Constitution.** The clauses of the preamble give clearly and briefly the reasons

for the establishment of the Constitution; and in the light of the previous history of the thirteen States, and especially of their history during "the critical period" between the close of the American Revolution and the framing of the Constitution, they were powerful reasons for the adoption of the Constitution.

**The Preamble Helps Interpret the Constitution.** The exact purposes of the Constitution as set forth in the preamble are important in giving us a correct understanding of the Constitution itself, and especially in guiding our courts to proper decisions as to the meaning and application of its various provisions. The preamble is always considered to be a part, and an important part, of the Constitution.

**The Three Departments of Government.** All governments must have three distinct powers:

1. The legislative power, which makes the laws.
2. The executive power, which carries out the laws.
3. The judicial power, which interprets the laws and applies them to individual cases.

In an absolute monarchy these powers are all exercised by one person, the monarch, but in constitutional governments they are given to different persons.

**Their Division in the United States.** In the United States the Constitution distributes the three powers of government as follows:

1. The legislative power is in the hands of Congress, which consists of two bodies of men, a Senate and a House of Representatives.
2. The executive power is in the hands of the President, who executes the laws through civil officers connected with the courts and the different departments of the government,

and, if necessary, through the army and navy, of which he is commander-in-chief.

3. The judicial power is in the hands of one Supreme Court in Washington and of inferior courts established by Congress in all the States and Territories.

**The Different Departments Are Not Always Separable.** While the three powers of government are entirely distinct and theoretically should be in the hands of entirely different persons, practically, in the United States as in other governments, it is found to be convenient and wise for some officials to be connected with more than one of these departments. As we shall see later, the President, in his power to approve or veto laws passed by Congress, has legislative as well as executive power. The Senate, in its power to confirm or reject the appointment of officers by the President, has executive as well as legislative power. Both Houses of Congress exercise judicial power in cases of impeachment. And the judges of the courts direct the execution of the laws which they apply to individual cases.

INTERIOR OF UNITED STATES HOUSE OF REPRESENTATIVES

## CHAPTER IV.

### THE HOUSE OF REPRESENTATIVES.

**The Divisions of the Constitution.** The Constitution is divided into seven parts, called Articles, numbered from one to seven. These are subdivided into Sections and Clauses, and any part of the Constitution is always referred to by its Article, Section, and Clause. The first Article is on the Legislative Department of the government. It is much the longest Article of the Constitution and will include the next six chapters.

ARTICLE I. SECTION I. *All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

**The Two Houses of Congress.** Congress, which makes the laws of the United States, is divided into two branches, or Houses, and, as we shall see later, every law must be approved by each branch. Each House acts as a check on the other and often corrects the other's mistakes in proposed legislation. Although having two Houses often delays the passage of a needed law and sometimes prevents it altogether, when the two Houses are controlled by different political parties, yet, on the whole, the plan is a good one, especially in preventing hasty and ill-considered legislation. The various nations of the world having legislative bodies

now, almost without exception, have them divided into two branches, and every State Legislature in the United States is thus divided.

Although the practice of having double legislative bodies is now general, it has not always been so. The Continental Congress had but one branch, and before the adoption of the Constitution of the United States, Pennsylvania and Georgia each had but one legislative body.

SECTION II. CLAUSE 1. *The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

**Representatives Elected Every Two Years.** This clause makes two years the term of office of a Representative in Congress, and at the end of that time, if not re-elected, he must retire from office. Most Representatives are elected for more than one term, and it is very important, not only to the community which elects him, but to the whole country, that an upright, efficient Representative should be re-elected term after term. A Representative almost always spends the whole of his first term in learning the duties of his office and how best to serve the people. Those States which keep the same Representatives in Congress for many years have much more power and influence in the government than those which frequently change them.

**Representatives Chosen by the People.** This clause also provides that the Representatives shall be chosen directly by the people. As we shall afterward learn, Senators and the President are not chosen directly by the people, but the people vote directly for the Representatives, and this,

together with their frequent election, makes them generally careful to represent and carry out the will of the people.

**Electors.** The word electors here means voters, and in each State those persons who vote for members of the most numerous branch of the State Legislature also vote for Representatives in Congress. In almost all of the States the most numerous branch of the State Legislature is also called a House of Representatives, so that those who anywhere vote for the State Representatives also vote for the National Representatives.

**Congressional Districts. Gerrymandering.** Every State which has more than one Representative in Congress is divided by its Legislature into as many Congressional districts as it has members of Congress. The voters of each of such districts elect one Congressman. This division of the State into Congressional districts is done every ten years, after the census has been taken, and the population of the various counties is known, and the whole number of Congressmen from the State fixed. The State Legislatures should divide the State into Congressional districts equal in population, and without seeking advantage for either political party, but it is now the general practice for the political party controlling the government of a State at the time of the apportionment so to arrange the districts as to give its party the largest possible number of Congressmen, and to give the other party the smallest possible number. This is called Gerrymandering, from Elbridge Gerry, Governor of Massachusetts, and afterward Vice-President of the United States. In 1812, while Gerry was Governor, the Legislature of Massachusetts, for political advantage, made a district whose shape was something like a dragon. Gilbert Stuart, the famous painter, seeing this district outlined on a map in a newspaper office, added a head, wings, and claws to it with his pencil, and said, "That will do for a salamander." "Better say Gerrymander," said the editor; and so the name originated. Gerrymandering is generally done by making for the majority party as many districts as possible, each comparatively small in population and having a safe majority for the party, while the minority party is given the smallest possible number of districts, large in population, so that no matter how many

voters it may have, it can only elect a few Congressmen. To arrange this, the Congressional districts are frequently distorted quite as badly as in the original Gerrymander. A map showing the Congressional districts of a State, when compared with the census reports and the election returns for the various districts, often affords a striking lesson in practical but discreditable and pernicious politics.

**Voting for the Most Numerous Branch of the State Legislature.** When the Constitution was made some of the States made a difference between those who might vote for the most numerous branch of the State Legislature (Representatives) and those who might vote for the least numerous branch (Senators). It required a higher qualification as to age or wealth to vote for a State Senator than for a State Representative. To allow all who voted for the most numerous branch of the State Legislature to vote for members of Congress gave a larger number the right to vote for them, and made them more truly representatives of the people. Every State has long since abolished all distinctions between the voters for the two branches of its Legislature, and in all the States all regular voters now vote for members of either House of the State Legislature and for all elective State officers, as well as for the Representatives in Congress.

**The States Decide Who May Vote for Congressmen.** This clause, however, establishes the very important fact that the right to vote for Representatives in Congress is given not by the United States, but by the laws of the several States. And the qualifications of voters for State officers and Congressmen may and do vary greatly in the different States. In four of the States women may now vote for all these officers; in some States voters must have paid taxes; in others they must have certain educational qualifications, etc. It must not be forgotten that the right to vote, not only for all State officers, but for Representatives in Congress and for all elective officers of the United States, rests upon the authority and consent of the State, subject to the single restriction found in the Fifteenth Amendment to the Constitution, which prohibits any State from denying the right to vote "on account of race, color, or previous condition of servitude."

SECTION II. CLAUSE 2. *No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who*

*shall not, when elected, be an inhabitant of that State in which he shall be chosen.*

**A Representative Must be Twenty-five Years Old.** The first qualification was evidently intended to secure reasonable maturity and experience in our Congressmen. The age limit is certainly not too high, perhaps it is too low, but in practice a man rarely gets into Congress until he is considerably more than twenty-five years old.

**A Foreign-born Representative Must have been a Citizen Seven Years.** The second qualification applies to foreign-born citizens. Under our present laws a foreigner must live in this country for five years before he can become a citizen. Then, as this clause provides, he must live here seven years longer, or twelve years in all, before he can be a Representative in Congress. This should enable him to know thoroughly the needs and wishes of his constituents.

**A Representative Must be a Resident of the State in which He is Elected.** In the third place, a Representative must be, when elected, an inhabitant of the State in which he is elected.

These three are the only constitutional qualifications of a Representative, and no State can require additional qualifications. But, as we shall see later, the House of Representatives itself may, and occasionally does, refuse to admit as Representatives persons who have all of the above qualifications and who have been properly elected. (See p. 45.)

**Representatives Not Necessarily Residents of their Congressional Districts.** It will be noticed that the third qualification does not require a Representative to be an inhabitant of the Congressional district which elects him, but only of the State. A district may elect a Representative from any part of the State, and there have been several instances of

districts electing Representatives who had never lived in those districts. But this is a rare practice. The desire to have a Congressman who knows his constituents and their needs, and who can serve them individually, generally makes the election of an outsider impossible. Many intelligent and public-spirited persons contend that this is a mistake, and that we should frequently get better Congressmen if it were the custom to elect them from any part of the State. In Great Britain the voters often elect members of Parliament who live in other districts, and the practice is generally considered advantageous to the country. There is, however, no present tendency toward a change in this direction in the United States.

SECTION II. CLAUSE 3. *Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers . . . excluding Indians not taxed. . . . The actual enumeration shall be made . . . every . . . ten years, . . . each State shall have at least one Representative.*

**Trouble about the Representation of the States. The First Compromise.** The representation of the different States in Congress was the most troublesome question which the makers of the Constitution had to settle. The small States insisted that the States should all have the same number of Representatives as well as the same number of Senators, for they feared that if Congress were proportioned to the populations of the States a few large States could combine, control the government, and deprive the small States of their rights and liberties. The large States insisted that their greater population and wealth entitled them to a larger share in the government, and feared that a combination of the smaller States would compel them to pay an undue share of the taxes. This controversy was settled by a compromise between the delegates from the small

and the large States. It was agreed that the number of Representatives from each State should be proportioned to its population, but that the number of Senators from each State should be the same. In the House of Representatives the different States now have from one to thirty-seven members, according to their population, while in the Senate each State, large or small, has two members. This was the first and most important of the three compromises in the framing of the Constitution.

**Untaxed Indians Not Represented in Congress.** The only persons not counted in the enumeration that decides how many Representatives a State shall have are the untaxed Indians living in the State. The untaxed Indians are understood to be those who live in tribes on government reservations. Scattered Indians and those living among the whites, even if too poor to pay any taxes, are considered as subject to taxation, and are counted in the enumeration determining the number of Representatives. As the members of all the political parties, all the women and children, and even the newly arrived foreigners in the State are counted in this enumeration, it would seem to be clear that a Representative should aim to represent and serve the best interests of all his constituents, and indeed of the whole country, and not merely those of the voters who elected him.

**The Representatives Reapportioned Every Ten Years.** Every ten years a census, or count, is made of all the people in the country. When the population of each State is thus found, Congress determines the size of the House of Representatives for the next ten years and divides the Representatives among the different States in proportion to the population of each. But each State, no matter how small its population, has at least one Representative.

**How the Representatives are Apportioned.** In apportioning the members of Congress among the States, the whole number of Representatives is first decided upon. For many years the leading members of Congress have felt that the number of Representatives should not be increased, because the House is growing too large for discussion and the proper transaction of business. But at each reapportionment the opposition of the slow-growing States to giving up part of their representation, on account of the growth of population elsewhere, brings about an increase in the total number. In the apportionment of 1901 the number of Representatives was increased from 357 to 386, which number just provided for the necessary increase in the representation of the growing States, without reducing the representation of any of the others. In making the apportionment the population of all the States is taken from the census reports; from this number is subtracted the population of all the small States, which will evidently have but one Representative each. The total population of the remaining States is then divided by the total number of Representatives they are to have, and the quotient is the RATIO OF REPRESENTATION, which in the apportionment of 1901 was 194,182. Then the population of each State is divided by this ratio to determine the number of Representatives from that State. In practice there is always a remainder from such a division, and these remainders amount to so much that the sum of all the quotients, or members assigned to the different States by these divisions, does not equal the total number of members to be apportioned. One such extra member is assigned to the State having the largest remainder after the division, another to the State having the next largest remainder, and so on until all the Representatives are apportioned.

**Congressmen-at-Large.** On account of the increase in the number of its Representatives it often happens that a State is entitled to elect more Representatives than it has Congressional districts. In such a case, until the State's Legislature redistricts the State, the additional members are elected by the votes of the whole State, just as its Governor is elected. Such Representatives are called Congressmen-at-Large.

**Direct Taxes.** Direct taxes mean taxes which must be paid by the person upon whom they are assessed, such as

poll tax, or tax upon the house which a man owns and in which he lives. An indirect tax is one which the taxpayer can shift upon someone else, such as the duty which a merchant pays upon goods which he imports from foreign countries, for he shifts this tax upon his customers by adding the amount of the duty to the price of his goods. The provision that direct taxes should be laid in proportion to population was a part of the first compromise of the Constitution, intended to protect the property of the larger and richer States from unfair taxation. As a matter of fact, the national government now lays no direct taxes, but all its taxes are indirect taxes, as we shall see later. A few times in our history, when the government had great need of more revenue, direct taxes were laid, but the United States treasury has received no income from this source since about the time of the Civil War.

**What are Direct Taxes?** The Supreme Court of the United States formerly held that direct taxes, as used in the Constitution, mean only taxes on real estate and poll or capitation taxes. This is not the general and usual meaning of the phrase, but in accordance with this decision direct taxes laid by Congress could be of these two kinds only. Previous to the Civil War direct taxes were laid by Congress but four times in our history: in 1798, 1813, 1815, and 1816. In 1861 a direct tax of twenty million dollars was laid and apportioned among the States and Territories in proportion to their population, as provided in the Constitution. But all of the Union States and Territories, except Delaware and Colorado, paid their share of the tax from the State treasuries.

**An Income Tax Unconstitutional.** From the beginning of the Civil War until 1872 Congress also laid and collected a tax on incomes. In 1894 Congress laid a tax of 2 per cent. on incomes without apportioning the tax among the States, but exempting all incomes of less than four thousand dollars from this tax, and also exempting four thousand dollars from taxation when the income was above that amount.

But the Supreme Court, reversing its prior decision, decided that the act taxing incomes without apportionment was unconstitutional, because a tax upon real estate or income therefrom, or personal property or income therefrom, is a direct tax, and therefore it should be levied in proportion to the population. And so now and for many years past all the taxes paid into the treasury of the United States have been indirect taxes; what they are we shall see later. It must, however, be remembered that there are other taxes than those laid by Congress. Everywhere the States, counties, cities, townships, etc., lay and collect taxes to pay their expenses. These governmental subdivisions are not hampered in laying direct taxes as is Congress, and all of them lay and collect direct taxes.

**Three-fifths of the Slaves Formerly Counted in Fixing the Representation from a State.** By referring to the full text of this clause (see Appendix, p. ii) it will be found that the original Constitution provided that for the apportionment of Representatives and direct taxes there should be added *to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.* The words "*all other persons*" referred to the slaves, although the words slave and slavery were carefully avoided in the original Constitution. This was also a part of the first compromise of the Constitution. The delegates in the Constitutional Convention from the Northern States contended that as the Southern States would not allow their slaves to vote, they should not be counted in fixing the number of Congressmen from those States; but the Southern States, especially North and South Carolina and Georgia, insisted that they should be thus counted. Finally this difference was compromised by counting three-fifths of the slaves. As long as slavery lasted this provision increased the number of Congressmen from the Southern States by from fifteen to thirty members. And a slaveholder having on his plantation five hundred slaves could count three hundred and one persons in the enumeration for a Congressman, yet he would cast the only vote among them. It was expected that the national taxes would also be increased in the Southern States by this provision, but, as we have seen, direct taxes were so rarely laid that this expectation was not realized. With the abolition of slavery at the close of the Civil War this clause became void, and now, in the words of the Fourteenth Amendment to the Constitution, adopted in 1868, the apportionment

of Representatives, as well as of direct taxes (should Congress lay any) is made according to *the whole number of persons in each State, excluding Indians not taxed.*

SECTION II. CLAUSE 4. *When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.*

**Filling an Unexpired Term in the House.** When a Representative dies, or his place otherwise becomes vacant before his term ends, the Governor of his State fixes a day when the voters of his Congressional district shall elect a new Congressman to represent them for the remainder of the unexpired term. This is usually done soon after the vacancy occurs, and at a special election.

SECTION II. CLAUSE 5. *The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.*

**The Speaker and His Importance.** Speaker is the title always given to the presiding officer of the House of Representatives. It comes from the title of the presiding officer of the House of Commons in England, who was so called because he spoke for the House when addressing the king. At the opening of the first session of each House of Representatives the members of the House elect one of their number Speaker, and he presides throughout both annual sessions, or for two years. The office of Speaker of the House of Representatives has in recent years grown into great importance. This is chiefly because he appoints the standing committees, which, as we shall see later, are so important in the making of laws; also because, by recognizing or refusing to recognize a member who wishes to offer a motion or to speak, he may help or hinder legislation; and

because he is the chairman and appointer of a small Committee on Rules, which now practically dictates what measures shall or shall not come up in the House of Representatives. It is not too much to say that in ordinary times the Speaker of the House of Representatives now is, next to the President, the most important and influential officer of the government. The Speaker, like any other member, has a right to vote, but, having voted, has no further right to vote in case of a tie vote.

**Other Officers of the House.** The other officers are also elected by the members of the House every two years, but are not themselves members of the House.

The most important of these is the Clerk, who is the secretary of the House. He has charge of the House's records and of the bills that are being made into laws. He holds over into the opening of the next Congress, and makes up the roll of its members and presides while they organize by electing their Speaker and other officers. He is usually an ex-member of the House. The Sergeant-at-Arms maintains order in the House, summons absent members, and makes arrests and summons witnesses when so directed by the House. The Doorkeeper has charge of the hall in which the Representatives meet, and when the House is in session his assistants are at all the doors on the lower floor to keep out all but members and the few others who are allowed to go in. The Postmaster looks after the mail of the members. The Chaplain opens each day's proceedings with prayer.

**Impeachment.** When a majority of the Representatives believes that an officer of the government has been guilty of such misconduct that he should be removed from office, they may bring charges against him before the Senate. This is impeachment. The officer who has been thus impeached by the House of Representatives is then tried by the Senate, as we shall see later.

INTERIOR OF UNITED STATES SENATE CHAMBER

## CHAPTER V.

### THE SENATE.

ARTICLE I. SECTION III. CLAUSE 1. *The Senate of the United States shall be composed of two Senators from each State, chosen by the ~~Legislature~~ thereof for six years; and each Senator shall have one vote.*

**The States Equally Represented in the Senate.** As a result of the first compromise of the Constitution each State was given two Senators. So Nevada, with about forty thousand inhabitants, has the same vote in the Senate of the United States as New York with more than seven millions of inhabitants. And we shall see later that the Constitution of the United States can never be changed so as to deprive any State of an equal representation in the Senate without its consent. As it is extremely unlikely that any State will ever consent to be deprived of such equal representation, this part of the Constitution is practically unchangeable.

**Great Importance of the Senators.** As the Senators were expected to represent the whole State, it was decided to have them elected by the State Legislatures. A six years' term of office for its members makes the Senate a more experienced and more conservative body than the House of Representatives. Representatives may be changed every two years, Senators not for six years. Their long terms, small number, and great power have made the position of Senator a very honorable and important one.

The provision that each Senator shall have one vote prevents any States from having more power in the Senate than the others by the roundabout way of securing for their Senators more than a vote apiece.

**How the Senators are Chosen.** At the last session before the expiration of the term of a Senator, the State Legislature chooses his successor. A law of Congress requires that on the second Tuesday after the Legislature meets each House shall take a separate vote for a Senator. The next day both Houses meet together, and if on the day before any candidate received a majority of the votes of each House he is declared elected. If no one had received a majority in each House, the two Houses vote for Senator in joint session, and must continue to vote in joint session every day until some candidate receives a majority of all the votes cast, or until the Legislature adjourns.

SECTION III. CLAUSE 2. *Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.*

**Senators Divided into Three Classes.** In accordance with this provision, the members of the Senate were, at their first session in 1789, divided into three classes, whose terms ended in two, four, and six years, and in no case were the two Senators from one State put into the same class. This plan has always been kept up with the Senators from the new States, so that the terms of one-third of the Senators

always expire and their successors are elected every two years. The two Senators from any State are, therefore, chosen at alternate intervals of two and four years. This is an important provision. It makes the Senate a continuous body, and at least two-thirds of its number are always experienced members, It is a more conservative body than the House of Representatives, and as many of the Senators are re-elected after serving out their term, the Senate is a body of great influence and importance, and has always included some of the ablest and foremost statesmen of the country.

**Filling an Unexpired Term in the Senate.** When a vacancy occurs in a Senatorship of any State, its Legislature elects a new Senator for the unexpired term; but if the Legislature is not in session when the vacancy occurs, the Governor of the State may appoint a Senator to serve until the Legislature elects his successor.

If a "deadlock" among the political parties occurs when a Senator should be chosen, and the Legislature adjourns without an election, the Governor cannot fill the vacancy; and a Senator who has filled a vacancy before the Legislature met must, at the adjournment of the Legislature, give up his seat, which remains vacant until the Legislature again meets and fills it. If the vacancy in the Senate occurs while the Legislature is in session, the Governor cannot fill it, even if the Legislature should adjourn without making an election, and the State will have but one Senator until its Legislature meets and fills it. This was settled in a famous case in 1899. There were three parties in the Legislature of Pennsylvania that winter, neither having a majority of the members. After taking daily votes for several months, the Legislature adjourned without electing a Senator. The Governor of the State then appointed ex-Senator Quay, whose term had just expired; but the Senate refused to admit him, and Pennsylvania had but one Senator until the State Legislature met two years later and filled the vacancy.

SECTION III. CLAUSE 3. *No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.*

**Senators Have Higher Qualifications than Representatives.** The makers of the Constitution intended that the Senators should be older and more experienced than the Representatives. Representatives may be elected at the age of twenty-five, but Senators must be five years older, and, if of foreign birth, they must have lived in the country two years longer than Representatives. In fact, the Senators are usually much older and more experienced in public affairs than the Representatives.

SECTION III. CLAUSE 4. *The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.*

**The Vice-President Presides over the Senate.** The House of Representatives elects its presiding officer, but the Constitution makes the Vice-President the presiding officer of the Senate. As the Vice-President is a citizen of one of the States, if he had a vote on all questions, as the Speaker of the House has, his State would have three votes in the Senate; so he never votes except in the rare case of a tie vote.

The Vice-President has much less power in the Senate than does the Speaker in the House of Representatives. He does not appoint the standing committees, but they are appointed by vote of the Senate itself. And there is no autocratic Committee on Rules in the Senate such as arbitrarily prescribes what questions may or may not come up in the House of Representatives. It is evident that the Vice-President's casting vote is of use only when he is in favor of a motion, for a tie vote always defeats a motion.

SECTION III. CLAUSE 5. *The Senate shall choose their other officers, and also a president* pro tempore, *in the absence of the Vice-President, or when he shall exercise the office of President of the United States.*

**The Senate's President Pro Tempore and Other Officers.** The officers of the Senate are about the same and have practically the same duties as those of the House of Representatives, namely, Secretary, Sergeant-at-Arms, Doorkeeper, Postmaster, and Chaplain. They are not members of the Senate.

As soon as convenient after a new Vice-President begins to preside over the Senate, he absents himself temporarily to give the Senate an opportunity to elect one of its own number president *pro tempore.* He is chosen for an indefinite term, and may be superseded by another Senator at any time that the Senate votes to do so. But, once elected, a president *pro tempore* usually continues to serve until his term expires or until his party becomes a minority in the Senate. Where there is a Vice-President, the president *pro tempore* only presides during the occasional absences of the Vice-President. If the Vice-President dies or becomes President of the United States, the president *pro tempore* becomes the regular presiding officer of the Senate. Should he be absent temporarily he calls upon any Senator to preside in his place. Being a member of the Senate, the president *pro tempore* has a right to vote on any question, but, having thus voted, has no casting vote afterward in case of a tie.

SECTION III. CLAUSE 6. *The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President*

*of the United States is tried the Chief Justice shall preside. And no person shall be convicted without the concurrence of two-thirds of the members present.*

**Impeached Officers Tried by the Senate.** When the House of Representatives has impeached an officer of the United States by bringing charges against him before the Senate, the Senate tries him upon these charges. A committee of the House of Representatives prosecutes the case and may employ lawyers to assist in the prosecution. The accused official may employ lawyers to defend him. Both sides have their witnesses heard. The Senate acts both as judge and jury in the case. Unless two-thirds of the Senators vote to convict him, the impeached officer is acquitted.

Except when the President of the United States is impeached the Vice-President, or the president *pro tempore* of the Senate, presides at the trial. If the President is impeached, the Chief Justice of the Supreme Court presides at the trial, because the Vice-President might be biased, for, if the President were convicted, the Vice-President would himself become President.

Section III. Clause 7. *Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.*

**The Punishment of Impeached Officials who are Convicted.** It follows from this that an impeached official who has been found guilty by a two-thirds vote of the Senate may by vote of he Senate be removed from his office, and may also be prevented from ever holding a national office again.

A later clause of the Constitution (see p. 136) requires that he shall always be removed from office, so that the only option left to the Senate is to decide whether he shall or shall not ever hold office under the government again. The purpose of impeachment is not to punish officials for their misdeeds, but to remove them from office, and, if it is deemed best, to prevent them from ever again holding government offices.

But if the official's offence deserves it, he may be tried and punished by the courts just as in the case of anyone else committing such an offence.

Impeachments have been rare in the United States, there having been but eight cases in all. In but two of them were the officials, both judges of the lower United States Courts, convicted. One of these was removed and disqualified from holding office again; the other was simply removed. With the exception of the judges, the President has the power to remove all officers appointed by him. Such of them as misbehave may, therefore, be removed by the President without impeachment. The most famous impeachment was that of President Andrew Johnson, in 1868, who was charged with removing officials contrary to law (which law he contended was unconstitutional), and with making violent and untrue charges against members of Congress in his public speeches. The final vote of the Senate was thirty-five for conviction and nineteen for acquittal, and as there was not quite a two-thirds vote for conviction he was acquitted.

After the impeachment of President Johnson in 1868, there was no case of impeachment for many years, except that of Secretary of War Belknap, who was impeached by the House in 1876, but not tried by the Senate because he had already resigned and President Grant had accepted his resignation. But in 1905, Charles Swayne, United States District Judge for Northern Florida, was impeached by the House and tried by the Senate for making overcharges in his expenses, residing outside of his district, and other improper conduct. But the Senate considered the charges unfounded or trivial and acquitted him.

Senators and Representatives are not subject to impeachment, for

they are not, strictly speaking, officers of the United States. They may be removed by the votes of two-thirds of their respective Houses, as we shall see later (see p. 46). Officers of the army and navy are not subject to impeachment. They are tried before special military or naval courts called courts martial, which are appointed by the President.

## CHAPTER VI.

### REGULATIONS OF CONGRESS.

ARTICLE I. SECTION IV. CLAUSE 1. *The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the place of choosing Senators.*

**Election of Senators and Representatives.** For many years after the adoption of the Constitution, the times, places, and manner of electing Senators and Representatives was left wholly to the States. But now an act of Congress requires that unless their State Constitutions fix a different date, all Representatives shall be chosen on the next Tuesday after the first Monday in November every even year. Almost all State officers, as well as national officers, are now elected on this day. Congress is forbidden to interfere with the State Legislatures in fixing the places where the Senators are elected, because, as they are elected by the State Legislatures, this would give Congress the right to fix the capitals of the States.

Oregon elects its Congressmen on the first Monday in June; Vermont on the first Tuesday in September, and Maine on the second Monday in September. All of the others are elected on the next Tuesday after the first Monday in November. The election of each Representative by a separate district is also required by an act of Congress.

SECTION IV. CLAUSE 2. *The Congress shall assemble at least once in every year, and such meeting shall be on the*

*first Monday in December, unless they shall by law appoint a different day.*

**The Two Sessions of Congress.** The regular sessions of Congress still begin every year on the first Monday in December. The first session of each Congress is called the long session, and lasts until the members are ready to adjourn, which is generally in the early summer. The second session is called the short session, because it is obliged to adjourn on March 4th, when the terms of all the Representatives end.

The term of office and the pay of a Representative begin on the 4th of March following his election, about four months after he is elected; but his first regular session of work does not begin until the next December, more than a year after his election. The Congress which meets in the December following a Congressional election is the one which was elected two years before, and among its members are always those who were defeated for re-election at the recent election, but have the short session to serve before their term expires. Theoretically the short session and the terms of the Representatives end at midnight on March 3d, but the session of March 3d is continued now without adjournment until noon of March 4th, and is considered and recorded as still being a part of March 3d.

Congresses are numbered, each Congress lasting through the term of one set of Representatives, or two years. The first Congress lasted from March 4, 1789, to March 4, 1791. So a little subtraction and division will show that the Congress meeting between March 4, 1905, and March 4, 1907, would be the Fifty-ninth Congress.

SECTION V. CLAUSE 1. *Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.*

**Each House Decides upon the Admission of its Members.** Disputed elections throughout the country are generally settled by the courts, but the Constitution gives the Senate and the House of Representatives the sole right to decide their own contested elections, and they are of frequent occurrence. Either House may also refuse to admit a member even if his election is undisputed, and if he has the constitutional qualifications of age, citizenship, etc., although this power is rarely exercised.

In 1900 the House of Representatives refused to admit Brigham H. Roberts, Representative-elect from Utah, because he was a polygamist.

**The Majority of its Members a Quorum in Each House.** The Constitution very properly requires that a majority of all the members of each House of Congress makes a quorum, or the number necessarily present to do any business. But as a sufficient number of members might prevent any business being done by absenting themselves carelessly or purposely, a minority may meet and adjourn every day, and, meantime, compel the attendance of enough of the absentees to make a quorum. In such cases the absent members are hunted up by the Sergeant-at-arms or his deputies.

While a majority of any body would seem to be the natural number to constitute a quorum, on account of the difficulty of securing so large an attendance, in many bodies the quorum is less, and often much less, than a majority. This is true of most churches and other societies. In the English House of Commons, with 670 members, 40 make a quorum; and in the House of Lords, with about 600 members, 3 make a quorum.

SECTION V. CLAUSE 2. *Each House may determine the rules of its proceedings, punish its members for disorderly*

*behavior, and with the concurrence of two-thirds expel a member.*

**The Rules of the House.** Each House should clearly make its own rules. The Senate being a continuous body, its rules continue in force until changed. But at the beginning of its first session the new House of Representatives must adopt rules. These are always the rules of the preceding House, with perhaps a few changes.

The rules of the Houses are complicated, and one reason why new members rarely take a prominent part in Congress is that it generally takes them a long time to learn these rules. The rules of the Senate are more liberal than those of the House. In the House no member may speak on any question longer than one hour without the permission of the House, but a Senator may speak as long as he chooses, continuing his speech from day to day, and, in order to prevent the passage of a bill, a Senator, near the end of a session, sometimes speaks continuously until the hour of final adjournment in order to prevent a vote upon it. The rules of the Senate make no provision for ending a debate so long as the members choose to continue it, while in the House of Representatives a majority may at any time end a debate and force a vote by calling for the previous question.

**Punishments of Congressmen.** Each House may and does punish its members for disorderly conduct. This usually arises from heated political controversies during debates, and the ordinary punishment is a vote of censure passed by the House. A member is sometimes suspended, and occasionally one is expelled, the latter punishment requiring a two-thirds vote to prevent its being done by a bare political majority.

SECTION V. CLAUSE 3. *Each House shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any*

*question shall, at the desire of one-fifth of those present, be entered on the journal.*

**The Sessions of Congress Generally Public.** The sessions of the House of Representatives are always open to the public, large galleries in their hall being provided for it. The meetings of the Senate are also open to the public, except when treaties with foreign countries and the confirmation of the President's appointments to office are being considered. All of these proceedings, except those of the secret meetings of the Senate, are published in the *Congressional Record* for free distribution by the members of Congress.

**How Congress Votes.** The ordinary way of voting is *viva voce*—that is, those who favor the motion call out "aye," and then those who oppose it call out "no," the presiding officer deciding from the sound how the majority voted. If the presiding officer cannot decide from the sound, he asks each side to stand until counted, and one-fifth of those present can always have the vote taken over again by yeas and nays. This means that the roll is called and all present vote, and a record of the votes of all the members is made, which record, except in the secret sessions of the Senate, is published in the *Congressional Record* and usually in the newspapers.

If a member of the House of Representatives is dissatisfied with the Speaker's decision as to a vote, he may call for tellers, and if a fifth of a quorum joins in the request the Speaker appoints two members as tellers, who stand facing each other in front of the Speaker's desk. Those in favor of the motion pass between the tellers and are counted, and then those opposed to the motion do the same. The tellers report the vote to the Speaker and he announces it to the House. This is called a division. It is not practised in the Senate.

SECTION V. CLAUSE 4. *Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.*

**The Two Houses Must Meet at the Same Place.** This prevents either House from delaying legislation by adjourning without the consent of the other, or from accomplishing the same purpose by moving its place of meeting to a distance without the consent of the other House.

Both Houses may by agreement adjourn at any time or may change their place of meeting. Congress has passed a law authorizing the President to convene Congress at some other place than Washington if its safety or other cause makes it necessary.

SECTION VI. CLAUSE 1. *The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.*

**The Salary of Congressmen.** Senators and Representatives now receive five thousand dollars per year. The Speaker of the House of Representatives receives eight thousand per year; the President *pro tempore* of the Senate receives eight thousand dollars per year only when there is no Vice-President.

Each member of Congress receives mileage at the rate of twenty cents for each mile travelled both in going to and returning from Washington, and for each session, the distance to be by the shortest route.

Each Congressman is also given twelve hundred dollars per year with which to pay a secretary, and one hundred and twenty-five dollars' worth of stationery. By writing or stamping his name on them, all his official letters, documents, books, etc., are carried free in the mails. He is forbidden by law to take any pay from individuals or corporations for anything that he may do in Congress.

**Congressmen Free from Arrest.** Except for serious offences, treason, felony, and breach of the peace, Congressmen cannot be arrested while in Washington during a session of Congress, nor on their way to Washington to attend such a session, nor on their way home from one. This is to prevent their arrest and detention from attending sessions of Congress for unnecessary causes. And if arrested during a vacation of Congress, for any cause except those mentioned, they must be released in time to reach Washington by the beginning of a session of Congress.

Treason is an attempt to overthrow one's government; felony is a general term for some grave crime, such as murder, forgery, etc.; breach of the peace is disorderly conduct. For these serious offences even public duty should not shield a Congressman. But a charge of a minor offence, or of debt, or a summons as a witness or juror should not interfere with his Congressional duties. If this were allowed it might be possible for unscrupulous persons to keep enough Congressmen away from Washington to pass a bad bill or defeat a good one.

**Freedom of Speech in Congress.** It is necessary that there should be freedom of speech in the discussions in Congress, and members, therefore, cannot be punished or taken to account outside of Congress for anything they may say there. They may say things there about men that would cause them to be arrested and tried for slander if said

outside of Congress. But either House may punish its own members for abuse of the privileges of debate.

Section VI. Clause 2. *No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.*

**Congressmen Debarred from Certain Offices.** If a member of Congress should manage to get a new office created or to have the pay of any office increased, he could not resign and at once accept that office. After the close of the term for which he was elected, he could fill the office. In most cases this would prevent his making an office for himself, for the office would generally be filled before his term expired. It would not be judicious to prohibit a man from ever having a certain office because he had voted, perhaps years before, to establish it or increase its pay. This does not prevent a Congressman from resigning and at once accepting an office which has not been created nor had its pay increased while he was in Congress, and Congressmen have repeatedly done this.

On February 23, 1895, President Cleveland appointed Matthew W. Ransom, then Senator from North Carolina, as Minister to Mexico, and he was confirmed on the same day. His senatorial term ended on March 4th, and the President waited until March 5th before signing and delivering his commission, doubtless believing that this would avoid the violation of this clause of the Constitution, for the salary of this office had been increased from twelve thousand to seventeen thousand five hundred dollars while Mr. Ransom was in the Senate. But when the first payment of his salary was due the Treasury Depart-

ment refused to pay it, because they considered that his appointment was in violation of this clause of the Constitution. The President then re-appointed him to the position, and at the following session of Congress this appointment was confirmed. As this second appointment was made after his term as Senator had expired, no objection to it could be made.

**A Congressman Cannot Hold Another United States Office.** This clause also prevents anyone who holds a United States office from being a Congressman. It does not prevent a State officer from being a Congressman, but the State may forbid this.

It is the custom in England and in most of the constitutional monarchies for the cabinet officers to be members of parliament. It has often been suggested that the members of the President's cabinet should also be members of Congress in order better to understand the disposition and motives of Congress, and to make Congress better acquainted with the views of the President and the plans of their departments. This clause of the Constitution would prevent their being members of Congress, but would not prevent their being allowed to attend the meetings of Congress and take part in its debates.

## CHAPTER VII.

### MAKING THE LAWS.

ARTICLE I. SECTION VII. CLAUSE 1. *All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.*

**The Origin of Tax Bills.** For many years the House of Commons, which is the branch of the English Parliament whose members are elected by the people, has had the sole power to originate all laws for collecting taxes in Great Britain. It had proved to be one of the most effective means of securing from the kings the rights and liberties of the people; so it was naturally adopted by the makers of our Constitution. And, as the people must pay the taxes, it seemed wise that all taxation bills should begin in the House of Representatives, which is elected directly by the people. The House of Representatives has always jealously guarded this right, and never agrees to a bill originating in the Senate which even indirectly lays taxes or changes the tax laws already in force.

The Senate may, and frequently does, amend the revenue bills originating in the House of Representatives, and such amendments are often afterward accepted by the Representatives and incorporated into the laws.

**The Committee on Ways and Means.** The standing committee of the House of Representatives to which all revenue bills are referred

for consideration and report before final action upon them, is called the Committee on Ways and Means (or Ways and Means of Raising Revenue). This is the most important committee of the House and its chairman has, next to the Speaker, the most important position in the House. This committee frames the tariff and other important revenue bills to be brought before the House; and a tariff bill generally takes the name of the chairman of the Committee on Ways and Means that prepared it. The tariff bill now in force is called the Dingley bill, because Representative Dingley, of Maine, was chairman of this committee when it was passed. The bill which it superseded was the Wilson bill, and its predecessor was the McKinley bill. The Senate has no Committee on Ways and Means, since it originates no revenue bills.

In England the House of Commons has the sole power of originating all appropriation bills also. But the Constitution does not give that power exclusively to the House of Representatives. A bill for appropriating money may, therefore, originate in the Senate. In practice however, all important appropriation bills begin in the House of Representatives. The Appropriation Committee is the second committee in importance in the House of Representatives, and its chairman a correspondingly important member of the House.

SECTION VII. CLAUSE 2. *Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal*

*of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.*

**Three Methods of Making Laws. First Method.** This clause gives three ways of making laws. By the first method the bill passes each House by a majority vote of those present, and is signed by the President. This is the common method and almost all the laws of the United States have been passed in this way.

**Second Method.** If the President refuses to sign a bill which has passed both Houses, he vetoes it—that is, he returns it with his objections (his veto message) to the House in which it originated. If it again passes this House and by a two-thirds vote of the members present, and afterward passes the other House by a two-thirds vote, it becomes a law "over the President's veto."

When this is done both Houses must vote by yeas and nays, which are entered on the journal and generally published in the newspapers, so that the whole country may know how each member voted. Most of the Presidents have vetoed bills at least occasionally, and only a small proportion of them have been passed over the vetoes.

**Third Method.** If the President is willing that a bill shall become a law, yet does not wish to show his approval of it by signing it, he may keep it for ten week-days, when it becomes a law without his signature. If, however, the President receives the bill less than ten days before Congress adjourns, and neither signs nor vetoes it, the bill does not become a law. This is called "a pocket veto."

The third method has seldom been used, but in 1894 the Senate made important changes in the Wilson tariff bill, and compelled the House to agree to these changes in order to get the bill passed at all. Although he preferred it to the McKinley tariff bill which it would supersede, President Cleveland was so much opposed to the changes made by the Senate that he refused to approve it by his signature, and, leaving Washington on his own vacation, left Congress there late in the summer with nothing to do but to wait for the ten days to expire and make the Wilson bill a law without the President's signature. Had they adjourned before the ten days expired and left Washington as he did, the bill would have been lost by a pocket veto.

It seems to be uncertain whether a law would be valid if signed by the President after Congress has adjourned. President Lincoln signed such a bill eight days after Congress had adjourned, and it went into operation like other laws, but was never tested in the courts. In 1894 the United States Court of Claims at Washington decided that a law if thus signed within ten days of its passage by Congress would be valid, but the matter was not carried to the Supreme Court for a final decision. In the absence of a decision of the Supreme Court on the matter, the Presidents now never take the chances of illegality in the matter, but sign such bills as they desire to become laws before Congress adjourns. In order to be able to do this the President usually spends the last few hours of the session of a Congress in a room adjacent to the Senate Chamber, that he may be able to approve bills which are delayed almost to the hour of adjournment.

**How Bills are Introduced and Passed.** A bill is introduced by a member in either House, except that a bill for raising taxes must be introduced first in the House of Representatives, and a bill for spending money generally, by custom, does begin there. Its title only is read when it is offered, and the Speaker refers it to the proper committee for examination. If a majority of the committee decides that the bill should be passed, they so report to the House. It is printed for the use of the members and then read a second time, usually in full, and at this reading it is dis-

cussed and perhaps amended. At a third reading a final vote is taken on the bill as a whole. If passed, the bill is sent to the other House, where it goes through the same process and then goes to the President.

**The Standing Committees.** Each House has about fifty standing committees, and the work is so divided up that any bill can be properly considered by some committee. In the House of Representatives the committees are appointed by the Speaker at the beginning of the first session of Congress. The chairman and a majority of each committee are always members of the political party having a majority in the House, and, therefore, of the same party as the Speaker. In the Senate the committees are elected by ballot by the Senators themselves, though they are always practically agreed upon beforehand in party caucuses of the Senators. Here, too, the chairman and a majority of the members of each committee belong to the majority party. The great majority of bills offered and referred to the committees are never heard of again outside of the committees, for many more bills are offered at every session of Congress than can possibly be considered. If reported adversely by the committee or not reported at all, a bill rarely passes. Bills which the committees report favorably are likely to pass their House, though the House does not always follow the recommendation of a committee.

**The Committee on Rules.** In the House of Representatives is a small committee that now has very great power in legislation. It consists of the Speaker, as chairman, and four others of the most influential and experienced members, two from each of the leading parties. This committee now practically decides what measures shall and shall not be considered in the House. The Speaker is chairman of this committee and appoints the other members of it, a most important part of the great power now in the Speaker's hands.

**Filibustering.** Sometimes a minority of the members of either House in order to prevent the passage of a bill try to prevent a vote upon it. This is called filibustering. In the House of Representatives this is usually done by making dilatory motions, such as motions to adjourn, which are always in order, and calling for the yeas and nays upon them. Each such vote takes about half an hour. This may be kept up until the time set apart for the consideration of the bill is gone, or until the

majority abandons the attempt to pass the bill, or changes it to suit the minority. But now the Speaker has a right to refuse to entertain a motion which he believes to be dilatory. In the Senate a bill especially objectionable to the minority may be "talked to death." Members of the Senate exercise their unrestricted right of debate by discussing it until the time for its consideration is gone, or even until the end of the session of the Senate. In 1901, Senator Carter, of Montana, believing that the River and Harbor Bill appropriating about fifty million dollars to improve the rivers and harbors of the country was extravagant and wasteful, held the floor for the last thirteen hours of the session, speaking continuously against the bill, except when he permitted an occasional interruption or question by another Senator. He thus defeated the bill by preventing a vote upon it.

**Counting a Quorum.** Formerly a favorite way of filibustering in the House of Representatives, especially when the two parties were nearly equal, was for the minority party to call for the yeas and nays on some motion and then they themselves refuse to vote. The necessary absences of even a few of its members would frequently so reduce the members of the majority party that when thus left to vote alone they could not show a quorum, and the House would be forced to adjourn for the day, for the custom of the House from the beginning had been to consider as present only those who answered to their names when the roll was called. But in 1890, Thomas B. Reed, Speaker of the House, decided that if a member was in the House he was present and would help to make a quorum whether he answered to the roll call or not. So when less than a majority answered to their names he counted all who were in the House and if his count showed a quorum he declared the bill passed, and went on with the business of the House. His right to do this was bitterly opposed by the opposite party, but the laws thus passed were sustained by the Supreme Court, and both parties have ever since followed this practice.

SECTION VII. CLAUSE 3. *Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved*

*by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.*

**All Legislation Must be Submitted to the President.** This prevents Congress from passing, without its submission to the President, an order or resolution which might in all but name be a law. Either House may, without referring it to the President, pass a resolution which affects that House only; and both Houses may, without its submission to the President, pass the same resolution as merely expressing the views of each House. This is called a concurrent resolution, and has no legal force. But an order or resolution passed by both Houses and signed by the President, or passed by them over his veto, has just the same force and effect as a law.

A few powers are given by the Constitution to Congress alone. In such cases it is not necessary that their action shall be submitted to the President. As we shall see later, the Constitution gives two-thirds of both Houses of Congress the right to propose amendments to the Constitution, and the Supreme Court has decided that such action need not be submitted to the President for his approval or disapproval. The Thirteenth Amendment, abolishing slavery, was proposed by Congress in 1865, and by oversight sent to President Lincoln, but the Senate, when the President returned it with his approval, unanimously voted that the President's approval was unnecessary, and did not notify the House of Representatives of the approval. No proposed amendment has since been submitted to the President.

## CHAPTER VIII.

### POWERS GIVEN TO CONGRESS.

ARTICLE I. SECTION VIII. CLAUSE 1. *The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.*

**Direct Taxes Not Laid.** The word "taxes" here means direct taxes, which, as we have already seen, mean taxes which must be paid by the person upon whom they are laid and which cannot be shifted by him upon someone else. And the Supreme Court has decided that in the United States direct taxes are those laid upon real estate or its income, upon personal property or its income, or poll taxes. If Congress should lay such direct taxes, each State must pay its share according to its population and not according to its wealth. During the Civil War and in a few other cases of necessity in our early history, such taxes were laid and collected by Congress, but the United States treasury does not now and has not for many years received any revenue from direct taxes.

One objection to direct taxation by Congress is its inequality. For instance, at the time of the last census California had about the same population as South Carolina, but the citizens of California had eight times as much wealth as the citizens of South Carolina; so a South Carolinian would have eight times as great a tax rate as a Cali-

fornian. But it should not be forgotten that the States, counties, cities, etc., do constantly lay and collect direct taxes to pay their expenses. But they are subject to no such restriction as is Congress, and may and do lay such taxes in proportion to wealth.

**Duties and Imposts.** Imposts mean taxes laid on goods imported into the country. Duties may mean taxes either on goods imported or exported, but, as a later clause in the Constitution forbids duties on exports, the words duties and imposts here mean the same things. These duties on imported goods are commonly called the "tariff," and have always been a large part of the revenue of the country. They now provide about one-half of all the money that comes into the United States treasury. These are indirect taxes, for the merchant who imports the goods adds the duty to the selling price of the goods, and we all pay a share of these taxes by paying higher prices for such of them as we buy. Most of the articles brought from other countries are thus taxed.

**How Duties are Collected.** At every port where foreign ships enter the government has a custom house, and here the duties on imported goods must be paid before the goods can be taken away from the ships or from the warehouses into which the ships are unloaded. Duties are of two kinds, *specific* and *ad valorem*. Specific duties fix a definite sum on a certain quantity of imported goods regardless of the changes in the market price of the goods, as, for instance, twenty-five cents per bushel upon all potatoes imported, which is the present duty upon potatoes, no matter how much they may cost abroad. Ad valorem duties are a percentage upon the cost of imported goods, as, for instance, 25 per cent. upon shoes, which is the present duty. In this case the duty paid upon each box of shoes evidently varies, as the price of the shoes abroad changes. Under the present tariff law, specific duties are levied on some articles and ad valorem duties upon others. And upon some articles part of the duty is specific and part ad valorem. Upon Brussels carpet, for instance,

there is a specific duty of forty-four cents per square yard, and in addition an ad valorem duty of 40 per cent.

**The Tariff and Protection of American Industries.** Besides producing necessary revenue for the expenses of the government, it is claimed that duties on imports allow our manufacturers, farmers, and miners to get higher prices for their goods than if we had free trade with foreign countries, and thus they are able to pay their workmen better wages and have greater profits themselves. Just how far Congress should go in this direction is one of the most prominent and important questions in politics to-day. The Republican party advocates a high tariff and ample protection to the products and manufacturers of the country. The Democratic party advocates a low tariff with moderate protection to manufacturers and cheaper goods to all the people.

**Excises.** Excises are internal taxes. Congress now raises large revenues from these taxes, commonly called internal revenue. It is almost wholly derived from alcoholic liquors and tobacco, which are heavily taxed. Almost all the revenue of the United States comes from the tariff and internal revenue.

**Internal Taxes Formerly Numerous.** During the Civil War and again during the war with Spain internal revenues were collected on many articles. The revenue stamps on bank checks and other documents, on patent medicines and perfumery, were familiar instances of it. But when the wars ended and there was no longer need of them, these taxes were taken off by Congress.

**Indirect Taxes More Easily Collected.** Indirect taxes are much more easily collected than direct taxes, for they can be collected at a few custom houses or at a few establishments where liquors or tobacco are manufactured. And they are more popular because the people pay them without knowing it. Men who find fault with their school taxes and other direct taxes often pay without complaint three or four times as much tax in the cost of necessities and luxuries for themselves and their families.

**How the Revenues May be Spent.** The Constitution limits the expenditure of money raised by taxes to the payment of the debts of the United States, to providing for the com-

mon defence, and promoting the general welfare. The last clause is so general that it allows public funds to be spent for almost any purpose that Congress deems wise.

**Duties, Imposts, and Excises Must be Uniform.** Both the tariff and the internal revenue must be the same in all parts of the United States. The necessity for this is self-evident, but before the adoption of the Constitution, when each State fixed its own tariff, two seaports not a hundred miles apart would have different import duties on the same goods. Taxes are not required to be uniform, as, indeed, they could not be; for, as we have already seen, they are direct taxes which must be laid in proportion to population, and if they were laid they would be very far from uniform.

**Receipts and Expenditures of the Government.** The total receipts of the national government for the year ending June 30, 1904, were $540,631,749. Of this, $261,274,565 came from duties on imports, and $232,904,119 from internal revenue; the rest from various sources. The total expenditures for the same year were $582,402,321. The deficit was caused by the payment of $50,000,000 on account of the Panama Canal, and was made up out of a large balance previously accumulated in the treasury. Usually the receipts exceed the expenses, but both are constantly increasing. The postal receipts are disregarded here, as they are all used in maintaining the postal service.

SECTION VIII. CLAUSE 2. *The Congress shall have power to borrow money on the credit of the United States.*

**Nations Must Sometimes Borrow.** Ordinarily a nation, like an individual, should live within its income, but the framers of the Constitution knew that in emergencies nations, like individuals, are sometimes obliged to borrow money; so Congress has the right to do this. During each of our wars Congress has found it necessary to borrow money, and it has occasionally done so in times of peace.

**United States Bonds.** Our government, like other governments, generally borrows money by selling bonds. These are promises to pay certain sums, usually at a fixed time in the future, with interest until paid. These bonds are bought and held as an investment by the citizens of this country or of other countries. United States notes, one of the most common kinds of paper money used in this country, are also a part of the government debt. By reading the face of such a note it will be seen that it is really a promise of the government to pay so many dollars on demand. And if presented to the treasury at Washington or at any of the sub-treasuries in the leading cities of the country, it will be redeemed in gold at any time. The certainty that it can be redeemed in gold at any time makes people as willing to receive it as gold; so it passes everywhere as money. This part of our debt bears no interest.

**The United States Debt.** Until the Civil War the debt of the United States never reached $100,000,000, except just after the war of 1812, when it was a little more than this for two or three years. In 1861, when the Civil War began, it was $90,000,000, and in 1866, when the war was over, and its expenses paid, the debt was $2,773,000,000. On January 1, 1905, this had been reduced to $1,282,000,000. Of this $897,000,000 was due to bondholders. Nearly two-thirds of it was borrowed at 2 per cent. interest, the remainder partly at 3 and partly at 4 per cent. About $400,000,000 of the debt bears no interest, most of it being in treasury notes. No other leading nation of the world has so small a debt as the United States. No other ever paid a great debt so rapidly as this country paid its Civil War debt, and no nation borrows money at so low a rate of interest as the United States.

SECTION VIII. CLAUSE 3. *The Congress shall have power to regulate commerce with foreign nations and among the several States, and with the Indian tribes.*

**Foreign Commerce.** Before the adoption of the Constitution each State regulated its own foreign commerce, and the varying regulations of the different States caused many difficulties and much friction among the States. To adjust these differences a convention of delegates from various States met at Annapolis in 1786. It was this convention that suggested the convention which met the next year and framed this Constitution. Naturally and wisely, in order to have uniform regulations, foreign commerce was put entirely under the control of Congress. All laws concerning foreign commerce are made by Congress. As we shall see later, all lawsuits concerning it go to the United States courts and not to the State courts. And the United States makes the improvements to harbors, builds and maintains the lighthouses, etc., no matter in what State they may be.

**Interstate Commerce.** Congress has also the right to regulate commerce among the States. It has long exercised control over commerce carried on among the States by the lakes and navigable rivers. But no attempt was made by Congress to regulate the enormous railroad commerce among the States until 1887, when the Interstate Commerce Law was passed. This law prohibits railroads from making unfair discriminations in freight and passenger rates from one State to another, as well as other abuses which had grown up. An Interstate Commerce Commission of five men is appointed by the President to enforce the interstate commerce laws. Congress has no control over commerce entirely within a State. This is regulated wholly by the laws of the State.

**Trusts.** It is through the clause of the Constitution giving Congress control of interstate and foreign commerce that Congress has attempted to remedy the evils generally be-

lieved to attend the trusts. A trust is a combination of all or nearly all the producers of a certain article in order to control the production and the price of that article. Such a trust is usually a corporation chartered by one of the States. Congress does not attempt to interfere with a corporation so long as it carries on business only in its own State. But a trust wishes to monopolize the business of the whole country, and, therefore, sends its products into other States and perhaps even to foreign countries; so that Congress has a hold upon it.

**Trust Legislation.** One of the commonest ways in which the trusts have driven their competitors out of business has been to secretly get lower freight rates from the railroads, and thus be able to undersell their rivals. So Congress has forbidden such special rates between different States. Congress has also passed laws to prevent interstate railroads from combining to prevent competition among themselves.

Congress has forbidden corporations whose products are a part of the interstate or foreign commerce to make any agreements among themselves for the purpose of preventing competition, or of raising prices. But the object of this legislation has been largely defeated by the formation in many kinds of business of great corporations, each of which buys up and consolidates into one all the smaller corporations which were formerly in that trust.

Congress is also trying to combat the evils of the trusts by investigating them and making their doings public.

The trust problem is one of the most important and serious with which Congress has ever had to deal. Just how far it is wise to go in trying to control the trusts or to prevent their formation is a grave question. It is very difficult to make laws which will effectually restrain and regulate the trusts and which will not at the same time injure

other business. It is also uncertain just how far the Constitution gives Congress the right to go in passing such laws. It is likely that there will continue to be much agitation of this question, and many attempts by Congress to legislate upon it.

**Commerce with the Indian Tribes.** Congress was given the sole right to control commerce with the Indian tribes. This was for the protection of the Indians from injurious articles, such as alcoholic liquors; and for the protection of white men by preventing the sale of firearms, etc., to hostile Indians. This has been managed by appointing Indian traders who had the sole right to buy or sell in certain tribes. There are still a few Indian reservations with such traders.

SECTION VIII. CLAUSE 4. *The Congress shall have power to establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.*

**Naturalization.** Naturalization is the process by which a foreigner becomes a citizen of the United States. To be naturalized a foreigner must have lived in the United States five years, and two or more years before he is naturalized he must have gone to a United States or State court and declared that it was his intention to become a citizen of the United States. At the end of the five years he must again go to the court and swear that he gives up his citizenship in his own country and accepts citizenship in the United States. He then receives a certificate showing that he is a citizen of the United States. When a foreigner becomes naturalized this act also naturalizes his wife and any of his children who are under twenty-one years of age. The children of citizens of the United States born while their parents are abroad are natural-born citizens.

In 1903 Congress passed a law requiring all persons applying for naturalization to swear that they are not anarchists (that they do not disbelieve in and are not opposed to organized governments), that they are not connected with any anarchistic association, and that they do not advocate the assassination of government officials.

Foreigners who came here before they were eighteen years old may be naturalized after five years' residence without a previous declaration of intention to be naturalized. Women may be naturalized in the same way as men, but rarely are, except through the naturalization of their husbands.

**Some Exceptions to the General Law of Naturalization.** Under the present laws of Congress only white and negro foreigners can be naturalized. This prevents Chinese, Japanese, and other Mongolians from becoming citizens of the United States, but their children born in this country are citizens. Several times in our history Congress has by a general law naturalized a whole community, or the President and the Senate have done this by treaty. In this way the inhabitants of the Louisiana purchase and of Texas were naturalized when these were annexed to the United States.

**Citizenship and Voting.** In most of the States only citizens of the United States have the right to vote. But, as we have learned before, the right to vote is given by the States and not by Congress, and in more than one-fourth of the States foreigners may vote before being naturalized, if they have declared their intention of becoming citizens.

**Bankruptcy.** A bankrupt is a person who is unable to pay his debts. A bankrupt law is a law which releases a bankrupt from paying such proportion of his debts as he cannot pay. Congress has power to pass such a law, which must be the same in all parts of the country. Under the present bankrupt law, which was passed by Congress in 1898, if a bankrupt has made no attempt to defraud his creditors, and if he gives up all his property to go toward the payment of his debts, the United States courts can relieve him of the rest of his debts. When bankrupts are thus relieved from their debts, they can start again in business

without having their goods, stock, or machinery seized for the old debts, as might otherwise be done. This allows them to support themselves and their families, and frequently to save enough money to pay the old debts, for an honest man will always pay his debts in full, if he can do so, even if the law has released him from them.

**Insolvent Laws of the Different States.** During most of the time since the adoption of the Constitution there has been no national bankrupt law such as we now have. To relieve their debtors the States generally have passed insolvent laws. Such a law applies only to the citizens of the State which passed it, and is void if it conflicts with a bankrupt law passed by Congress. An insolvent law applies only to future debts, and cannot release a man from a debt which he contracted before the law was passed, for the Constitution expressly says that "*no State shall pass any law impairing the obligations of contracts.*" But the bankrupt laws passed by Congress have all applied to old debts as well as to new ones. The insolvent laws of the States also serve to release criminals, who are unable to pay them, from the payment of the fines which have been a part of their punishment. Under these laws in the various States not quite all of a debtor's property can be taken for his debts, but a moderate sum must be left him to furnish him tools for his work or a temporary support for himself and family. The amount thus exempt varies in the different States.[1]

SECTION VIII. CLAUSE 5. *The Congress shall have power to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.*

**Congress Has Sole Control of Money.** This gives to Congress sole control of providing money for the United States. We have, therefore, the same kinds of money everywhere, and each kind of money has the same value everywhere, which would not be true if each State provided its own money.

[1] In Pennsylvania it is three hundred dollars

**Regulating the Value of Foreign Coin.** To regulate the value of foreign coin means to determine how much foreign coins are worth in our money. This is done by finding how much gold or silver is in them, and the Secretary of the Treasury has this done and publishes their values. It is these values that are found in the tables of the values of coins in our arithmetics. This does not make foreign money a legal tender in the United States, and no one is obliged to take foreign money in payment of debts, although in some parts of the country foreign money is often voluntarily accepted, as Canadian money in the vicinity of Canada, and Mexican money on the borders of Mexico.

**The Mints.** The chief mint is in Philadelphia. It was established there when that city was the capital of the country, and has never been removed. Branch mints have been established at different places. Now there are but two, one in San Francisco and one in New Orleans. All our coins are made at these three mints. Any person may take or send gold to a mint and receive in return as much coin as his gold will make. No charge is made for making gold coins, nor for the copper alloy put into them. Formerly silver could be exchanged for silver coin in the same way, but this cannot now be done, as the silver in our coins is worth much less than the face of the coins. The government buys the silver and gets the profit of coining it.

**Our Present Coins.** Our present gold coins are the twenty-dollar gold piece, ten-dollar gold piece, five-dollar gold piece, and the two-and-a-half-dollar gold piece, nine-tenths of their weight being pure gold and one-tenth copper, as pure gold would be too soft for use. All gold coins are an unlimited legal tender—that is, they may be used to pay debts to any amount.

The silver coins are the dollar, the half-dollar, the quarter-dollar, and the ten-cent piece, or dime. They are nine-tenths pure silver and

one-tenth copper. The silver dollar is a legal tender to any amount. The smaller silver coins are a legal tender up to ten dollars.

The five-cent pieces are three-fourths copper and one-fourth nickel. The cents are 95 per cent. copper and 5 per cent. tin and zinc. These two coins are a legal tender to the amount of twenty-five cents only.

**Subsidiary Coins.** It is a general custom among nations to put into their smaller coins less than their face value of silver or other metal. Such coins are called subsidiary coins. This is done to prevent these coins from ever becoming so valuable, in the possible rise in value of their metals, as to induce manufacturers of silverware and others to melt them and thus strip the country of the small coins necessary in business. Thus, while a silver dollar weighs 412½ grains,[1] two half-dollars weigh but 385⅘ grains. If tried on any pair of good scales, two half-dollars will be found to be lighter than a silver dollar. Four quarters, or ten dimes, weigh the same as two half-dollars. The cost of the material in the five-cent and one-cent pieces is much less than the face value of these coins. The government makes a large profit on its subsidiary coins.

**The Silver Dollar and Free Coinage.** When the first coinage laws were passed, in 1792, gold was worth about fifteen times as much as silver, and Congress made a silver dollar fifteen times as heavy as a gold one; so they really were of the same value at the beginning, and both were made a legal tender in payment of all debts. Free coinage of both silver and gold was provided, so that anyone might take gold or silver to the mint, where the government would coin it into gold or silver coins and return all his gold and silver thus made into coin, which his creditors must take in payment of his debts. The mint charged only the cost of the alloy put into the coins. If the value of gold and silver had remained the same, this arrangement need not have been changed. But gold and silver, like everything else, are constantly changing in value, from their scarcity or abundance, the greater or less demand for them, or other causes.

**Gold Coins Reduced in Value in 1834.** By 1834 gold was worth sixteen times as much as silver, and of course nobody would send gold to the mint to be coined when he could buy as much with fifteen dollars worth of silver made into coins as with sixteen dollars worth of gold made into coins. So by this time little else than silver was being

[1] Gold and silver are always weighed by Troy weight.

coined, and all the gold coins that had been in circulation were being melted up for their gold or sold in other countries. Congress then decided to make the gold coins smaller, and the gold dollars were made only one-sixteenth as heavy as the silver ones. Again, for a while, gold and silver were both coined and both kinds of money were in use. But this did not last long, and now the silver money began to be worth more than the gold and the silver coins began to disappear.

**Silver Coins Subsidiary.** By 1853 Congress feared that the small silver coins would entirely disappear, and thus deprive the people of change; so a law was passed making the fifty-cent pieces, twenty-five-cent pieces, and ten-cent pieces about seven per cent. lighter than before, and free coinage of these smaller coins was stopped, the government buying silver and coining them as needed in business. Anybody who had silver might still take it to the mint and have it coined into dollars; but as the silver was worth more than the dollars, but little of this was done and silver dollars became practically unknown.

**The Act of 1873.** In 1873, while silver was still too valuable to be made into dollars, Congress passed a new coinage law. By this law the coinage of one or two small coins was stopped, and, as there seemed to be no further demand for silver dollars as currency, no provision was made for their further coinage. But soon afterward silver again became worth less than one-sixteenth as much as gold, and pressure began to be brought to bear upon Congress to establish the free coinage of silver dollars.

**Silver Dollars Again Coined.** By 1878 the demand for the coinage of silver dollars became so strong that Congress passed, over the veto of President Hayes, a law requiring the government to coin from two to four millions of silver dollars every month. Free coinage was not allowed, but the government bought the silver and reaped the profit in the coinage. This was kept up until 1890, during which time nearly four hundred millions of silver dollars were coined, yet the silver in a dollar, worth ninety-three cents in 1878, had dropped to eighty-one cents in 1890.

In 1890 Congress passed a law requiring the Secretary of the Treasury to buy four and a half million ounces of silver each month, part of which was to be coined into dollars[1] and the remainder to be stored

[1] There are 378½ grains of pure silver in a dollar. How many dollars would a month's purchase make?

in the treasury vaults and paper certificates issued for it. This was continued until near the end of the year 1893, when the law was repealed, and the silver then accumulated has since been gradually coined. In 1893 the silver in a dollar was worth only sixty cents, and has since fallen much lower. Its value is quoted every day in the leading newspapers.

**Paper Money. United States Notes.** Most of the money in common use is neither gold nor silver, but paper. There are now three kinds of paper money in general use. The United States notes were issued by Congress during the Civil War and have been in use ever since. On account of the color of the ink used in printing them, they were, when issued, popularly called "greenbacks." Like gold coin and silver dollars, they are a legal tender for private debts. About three hundred and fifty millions of dollars' worth of United States notes are in circulation. United States notes are really promissory notes issued by the government and are, as has been said, a part of the government debt.

**National Bank Notes.** During the Civil War Congress authorized the establishment of National Banks. These banks are required to put part of their capital (and may put all of it) into government bonds. These bonds are deposited with the Treasurer of the United States, who makes and gives to the banks the face value of their bonds in bank notes, and the banks use the notes as money. National Bank notes are not a legal tender for private debts, but as they are secured by United States bonds and may be exchanged for legal-tender money, either at the banks which issued them or at the United States Treasury, they are everywhere voluntarily accepted. About five hundred millions of dollars in National Bank notes are in use.

**Gold and Silver Certificates.** To avoid the inconvenience of carrying large amounts of coin, much of the gold and silver coin is deposited in the treasury vaults at Washington, and gold and silver certificates in the form of paper money are issued by the government in its place. As long as such a certificate is in circulation the gold or silver coin for which it was issued is kept in the vaults. Gold and silver certificates are not a legal tender for private debts, but as they may be exchanged for gold coin or silver dollars at any time, like the National Bank notes, they pass current everywhere as freely as legal-tender money. There are about five hundred millions of dollars in gold and almost as much in silver certificates now in circulation. The Secretary of the Treasury is required by law to keep all the different kinds of money at the same value.[1]

**Weights and Measures.** Congress is here given the authority to fix the standard of weights and measures, but has never fully exercised this authority. After the Revolutionary War the States continued to use the English weights and measures which had been used in the colonies, and the new States adopted the same; so that Congress has not found it necessary to fix such standards. Congress has passed laws legalizing and permitting the use of the metric system of weights and measures, which is used all over the civilized world except in the United States and Great Britain and their colonies. It would be of incalculable advantage to us to have the metric system in common use, but the diffi-

[1] Examine carefully the different kinds of paper money; most persons have never read the notes which they have constantly handled. It will be noticed that all the one-dollar and two-dollar notes are silver certificates. The purpose of this was to secure a more extensive use of silver.

culty of making the change is so great that but little progress toward it has been made.

SECTION VIII. CLAUSE 6. *The Congress shall have power to provide for the punishment of counterfeiting the securities and current coin of the United States.*

**Counterfeiting Punished by United States Laws.** As the United States makes and issues all the money, it properly has the right to punish counterfeiting. And when a man makes counterfeit money he is not tried and punished by the State courts,[1] but by the United States courts. But a person who passes counterfeit money may be tried either in the State courts or the United States courts. Making counterfeit money or trying to pass money which one knows to be counterfeit is a grave crime and is punishable by heavy fine and long imprisonment, and the law is so strictly enforced that counterfeit money is rare. By securities are meant paper money and United States bonds.

SECTION VIII. CLAUSE 7. *Congress shall have power to establish Post Offices and Post Roads.*

**The National Government Has Exclusive Control over Postal Business.** Under the authority of this clause the national government has taken exclusive control of the postal business of the country. No State or individual can mantain a Post Office or make a business of carrying other persons'

[1] The courts which meet in the court houses at the county seats are State courts. The United States courts are entirely separate from them, but are carried on in a similar way. There are one or more United States courts in each State.

letters for pay. The Post Offices and their business are managed by a Postmaster-general and four Assistant Postmasters-general. The Postmaster-general is a member of the President's cabinet.

**Four Classes of Postmasters and Post Offices.** A postmaster's pay depends upon the amount of business done at his Office. If his salary is less than one thousand dollars per year he is a postmaster of the fourth class, and his Office is a fourth-class Office. The salary of a postmaster of the fourth class depends upon the value of the postage stamps cancelled in his Office. Postmasters of the fourth class are appointed by the Postmaster-general for an indefinite term, and may be removed by him at any time. When the salary of a postmaster is between one and two thousand dollars he and his Post Office are in the third class. When the salary is between two and three thousand dollars, the postmaster and his Office belong to the second class, and a salary of three thousand dollars or more puts a postmaster and his Office into the first class. The salaries of the first, second, and third class Offices depend upon the value of the stamps sold at these Offices. Postmasters of the first, second, and third classes are appointed by the President for four-year terms

**Four Classes of Postal Matter.** All mail matter is divided into four classes. The first class is written matter, and its rate of postage is two cents per ounce, except on local or drop letters where there is no free delivery, and on postal cards, on which the rate is one cent.

Second-class matter consists of newspapers and magazines published not less than four times a year. The postage on these is one cent for each four ounces, but their publishers may mail them for one cent a pound, and may mail

them to subscribers in the county where they are published without paying any postage.[1]

Third-class matter is books, circulars, and other printed matter except newspapers and magazines. Postage on this class of matter is one cent for each two ounces.

Fourth-class matter is merchandise, such as articles of clothing, samples, etc. Almost anything not heavier than four pounds that can be carried safely may be sent by mail. The postage on fourth-class matter is one cent per ounce.

First-class matter having a two-cent stamp upon it will be forwarded even if it weighs more than an ounce, the excess postage being collected from the receiver. But second, third, and fourth-class matter will not be sent unless the postage is fully prepaid. The name and address of the sender should always be written or printed on the upper left-hand corner of a letter or package sent by mail. Second, third, and fourth-class matter must not be sealed, but tied or so fastened that it may be examined by the postmaster. If sealed or if it contains any written communication, the whole package must pay letter postage.

**Registration and Money Orders.** Letters or any other mail matter may be registered at any Post Office for eight cents. Registered mail is carried with special care; every person who handles it must receipt for it. It can readily be traced and is rarely lost, and in case of loss of registered first-class matter the government will pay for it up to a value of twenty-five dollars. From all except the smallest Post Offices money can be safely sent by money orders at a cost of from three

[1] But not when they are delivered by letter carriers. There are many exceptions and details about the postal service which cannot be given here. At every Post Office will be found the postal guide, which gives full information concerning postal affairs.

to thirty cents for each order, but no one money order may exceed one hundred dollars.

**Free Delivery.** In all the larger towns the mails are collected and delivered free at homes and business places by mail carriers. Free service of this kind is now being also extended to the country, and in many communities rural free-delivery carriers make one and sometimes two daily trips through the country, collecting and delivering mail everywhere along the principal roads.

**Foreign Postage.** To foreign countries the postage on letters is five cents per half-ounce, on postal cards two cents, and on papers, books, and all printed matter one cent for each two ounces. But to Canada, Cuba, and Mexico postage is the same as in the United States, and the same is, of course, true for the Philippines, Porto Rico, and our other colonies.

In the leading nations of Europe the Post Office gives the people much more service than in the United States. There the government usually owns the telegraph lines, and telegrams are sent cheaply through the Post Offices. Postal saving banks, which receive small savings, keep them safely and return them with interest, are common. And in some countries the government issues small life-insurance policies and sells annuities through the Post Office.

**Post Roads.** This clause of the Constitution also gives Congress the right to construct roads over which the mails may be carried, and under its authority Congress, early in the last century, made a turnpike, the National Road, from Cumberland, Md., into Indiana. But now the railroads so cover the country that it is unnecessary for Congress to make post roads. By law all railroads are declared to be post roads, and the Postmaster-general is authorized to make contracts for the carrying of the mails over them.

SECTION VIII. CLAUSE 8. *The Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.*

**Copyrights. How Obtained.** In order to prevent anyone from printing and selling his writings without his consent, an author must apply to the Librarian of Congress for a copyright and must send to him a printed or typewritten copy of the title page of his book and a fee of fifty cents. After the book is printed, he must also send to the Librarian of Congress two copies of the book. When this has been done no one except the author or his authorized publisher may publish his book anywhere in the United States for twenty-eight years, nor may any copies of the book printed in other countries without his consent be sold in the United States. At the end of the twenty-eight years the author or his widow or children may have it renewed for fourteen years longer. After that anyone may print or sell it.

Musical compositions, engravings, photographs, etc., may be copyrighted in the same way. Every book or other copyrighted article must have notice and date of the copyright on it. This is usually found on the opposite side of the title page of the book, and gives the real date when the book was written or last revised.

**International Copyright.** Until recently foreigners could not copyright their books in the United States, and foreign books were made and sold cheaply here. Now foreigners may copyright their books here, but the books must be made and the type used in printing them must be set up in this country. The author's country must also grant copyrights to American authors.

**Patents and How Obtained.** A patent gives to an inventor the exclusive right to make and sell his invention. It is

granted by the Commissioner of Patents at Washington. The cost is thirty-five dollars, fifteen dollars to be paid when the patent is applied for, and twenty dollars more if the patent is granted. A patent lasts seventeen years and cannot be renewed. The word "patent," with the date of the patent, must be on every patented article manufactured.

Before a patent is granted careful investigation is made by the officials of the patent office to assure themselves that the invention has not been patented or used before. Formerly small models of all new machines had to be sent to the patent office by the inventors, before patents were granted, and many thousands of these models are stored in the patent office at Washington. Now, however, drawings and printed descriptions only are usually required, models being asked for only when necessary to make the inventions clear. American inventions may be patented in other countries, and foreigners may patent their inventions here. It is customary to patent important inventions in all the leading countries. There is a general impression that the laws do not interfere with the making of a patented article for one's own use, but this is not correct. The patent laws forbid anyone making a patented article without the consent of the owner of the patent, and forbid anyone using an article thus made without such consent.

SECTION VIII. CLAUSE 9. *The Congress shall have power to constitute tribunals inferior to the Supreme Court.*

**Supreme and Inferior Courts.** A later clause of the Constitution establishes a Supreme Court of the United States. The Supreme Court always meets in Washington, and hears only the most important cases. By the authority given in this clause, Congress has established lower United States Courts in all the States and Territories. These will be taken up in the chapter on the Judiciary.

SECTION VIII. CLAUSE 10. *The Congress shall have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations.*

**Piracy and Felony.** Piracy is attacking and robbing ships at sea, and is considered so grave a crime that nations usually punish it with death. Felony is a grave crime of almost any kind. Since a ship at sea is not in any State, the punishment of crimes committed at sea properly belongs to the United States and not to any State. When a crime is committed on a ship belonging in the United States, the criminal is tried in the United States Court of the State in which the ship first lands. The high seas here means the ocean with its bays and harbors.

The law of nations is a body of laws established by custom and agreement of the leading nations of the world. Evidently the United States, rather than the individual States, should have jurisdiction in cases arising under such laws.

SECTION VIII. CLAUSE 11. *The Congress shall have power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.*

**Congress Declares War.** In a monarchy the king or emperor declares war, though in a constitutional monarchy this right is controlled by the power of parliament, or similar body, to refuse to pay the expenses of the war. In the United States, Congress, not the President, has the right to declare war; and the President does not even have the right to veto a resolution of Congress declaring war. But when Congress has declared war, it is the duty of the President, as the chief executive officer of the nation, to carry on the war.

**Letters of Marque and Reprisal.** Besides sending out its own warships, it was formerly common for a nation in time of war to give to some of its private citizens permission to

use their own ships and capture ships belonging to the enemy. Such permissions are called *letters of marque and reprisal*, and such ships are called privateers. The crew of such a ship if captured would be treated as prisoners of war, instead of being hanged as pirates, as would be liable to happen if the attacking ship had no letters of marque and reprisal. No letters of marque and reprisal have been granted by the United States since the war of 1812. But during our Civil War Confederate privateers did great damage to Northern commerce. Civilized nations are now generally opposed to privateering. Letters of marque and reprisal were once also issued to private expeditions on land as well as by sea, but privateering on land has long since been abandoned by civilized nations.

At an international congress held at Paris in 1856, all the important countries of Europe, except Spain, agreed to give up privateering. The United States did not join in this agreement at that time, because the European nations would not also agree to stop the seizure of the property of private citizens by war-ships in time of war. But in the war with Spain in 1898, the United States forbade privateering on the part of its citizens, and while Spain declared in favor of it no Spanish privateers were actually sent out. It is unlikely that the United States will ever again resort to privateering.

**Captures on Land and Water.** Properly Congress should make rules concerning captures on land and water, although the laws of nations now embrace certain rules for the humane treatment of prisoners and non-combatants which all civilized nations observe. Until recently, half of the value of a ship and cargo captured in war was divided among the crew of the ship which captured it, the other half going to the government. Now, property captured in war, either on sea or land, belongs wholly to the government.

It is still allowable in time of war for the war-ships of one country to seize ships belonging to the other country's private citizens, and our navy captured several such ships during the war with Spain. Ships and cargoes thus captured by the United States would now be sold for the benefit of the government.

When two nations are at war their war-ships may also seize private ships of friendly nations caught taking things to the enemy's country which would help it to carry on the war. Such articles are called "contraband of war," and include arms, ammunition, etc.

SECTION VIII. CLAUSE 12. *The Congress shall have power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.*

**Our Army.** The United States is fortunately so located as to be in little danger of attack by land, and except in times of war has maintained but a small army. This serves to preserve order at home and in our colonies, and would be the nucleus of a larger army in time of war. Our army now numbers about sixty thousand men. It is recruited by voluntary enlistments, the term of service being three years.[1]

**Organization and Officers of the Army.** The most important unit in the army is a regiment, made up of one thousand four hundred and forty officers and soldiers, and divided into twelve companies of one hundred and twenty each. The commander of the regiment is a colonel, who is assisted

[1] In all the leading nations of Europe, except in England, every able-bodied man must, at about twenty years of age, enter the army and remain there two or three years. And for years afterward he is enrolled in the reserves and if necessary may be called into service in time of war. In England the army is recruited by voluntary enlistment, as in the United States, but is much larger than ours. Germany and France each has always about six hundred thousand soldiers in service. Austria's and Great Britain's standing armies are about half that size, while Russia always has more than a million men under arms.

by a lieutenant-colonel and three majors, each major having direct charge of four companies, called a battalion. The commander of a company is a captain, who is assisted by a first and a second lieutenant. The officer next in rank above a colonel is a brigadier-general, who commands a brigade made up of three regiments. Next in rank is a major-general, who commands a division, made up of three brigades. A corps is the largest unit of an army, and is made up of three divisions. It is commanded by one of the major-generals, selected for that service by the President. The next and highest officer is the lieutenant-general, who takes such important command or duty as the President may assign to him.

The above organization is rarely completely carried out in practice. The companies seldom have their full quota of soldiers. The number of regiments in a brigade and of brigades in a division varies somewhat with the needs of the service, while an army corps is only organized in time of war.

**Retirement, Promotions, etc.** All army officers are retired from active service at the age of sixty-four, and many retire earlier if disabled by wounds or illness. Retired officers are pensioned for life. When a regimental officer retires or dies the officer of next lower rank of the same line of service (viz., infantry, cavalry, or artillery), who has longest held that rank, is promoted. This in turn causes the promotion of the senior officer of the next lower rank, and so on down. But promotion above the rank of colonel is determined by the President and is not necessarily according to seniority or rank. At present there are seven major-generals and twenty-six brigadier-generals in active service.

The officers who have been mentioned are all commissioned officers. They hold commissions signed by the President. Besides them there are in each company from four to eight corporals and above these from five to nine sergeants, who are all called non-commissioned officers. They are simply private soldiers selected for these positions by the captain of the company. They are not in the line of promotion to become commissioned officers, but receive slightly more pay than the other soldiers and assist the captain and lieutenants in drilling and managing the company.

**The Military Academy.** Occasionally a private soldier of unusual ability and merit may pass the necessary examinations and become a second lieutenant. But, except when, in time of war, a large increase in their number is necessary, the commissioned officers of the army are, as a rule, supplied by the United States Military Academy at West Point, N. Y. Each Senator, Representative, and territorial delegate has the appointment of one cadet to the Academy, and the President has the appointment of forty at large and one from the District of Columbia. Those who enter must be between seventeen and twenty-two years old, must have no important physical defects, and must either pass an entrance examination or be graduates of a satisfactory public high school or State normal school, or graduates or students of a college or university. The course is four years of study and military drill, all necessary expenses being paid by the government. Upon graduating, a cadet is commissioned a second lieutenant in the army.

**Appropriation for the Support of the Army Limited to Two Years.** This provision of the Constitution prevents Congress from providing for the maintenance of a standing army for more than two years ahead. And as the members of the House of Representatives are elected by the people every two years, it is evident that no standing army can continue to be kept up in this country without the consent of the people. As a matter of fact, the appropriations for the army are made by Congress for but one year at a time.

SECTION VIII. CLAUSE 13. *The Congress shall have power to provide and maintain a navy.*

**Our Navy.** It is generally believed that we have more need of a strong navy than of a great army. And while our navy is not the first in the world,[1] it ranks well in strength and efficiency and is rapidly growing.

[1] Great Britain has much the most powerful navy in the world, while France is second. Germany and the United States come next, and at present do not differ greatly in naval strength.

BATTLESHIP OREGON

The principal ships in a modern navy are battleships, armored cruisers, gunboats, torpedo-boats, torpedo-boat destroyers, and transports. Modern battleships are large ships, with every part of the hull above the water completely covered with thick and exceedingly hard steel armor, and armed with the most powerful cannon. A first-class battleship costs from six to seven millions of dollars and takes several years to build. An armored cruiser may be almost as large and costly as a battleship, but is less heavily armored and does not carry such heavy guns. It is, therefore, lighter and has more speed. A gunboat is much smaller, with little or no armor, and armed with small cannon. It is often of such light draft as to enable it to go into shallow bays or rivers. A torpedo-boat is small and very swift. It is not built for fighting, but solely to destroy large ships by exploding torpedoes under them. Torpedo-boat destroyers are larger than torpedo-boats, but are as swift as, or swifter than, they, and, as their name indicates, are to protect the large war-ships by destroying the enemy's torpedo boats. Transports are the merchant ships of the navy, which transport men and supplies.

**Naval Officers.** The lowest commissioned naval officer is an ensign. Next above him is the lieutenant, junior grade. Then comes the lieutenant, then the lieutenant-commander, then the commander, and then the captain. A captain has command of a ship; he corresponds to a colonel in the army. The lower officers all have their duties in assisting him, just as the lieutenant-colonel, major, captain, etc., assist the colonel with his regiment. The smaller ships are often in charge of commanders, and sometimes of lieutenant-commanders, and even of lieutenants. The only rank above captain now regularly established in the navy is that of rear-admiral, who commands a squadron of several ships. The ship in which the rear-admiral sails is called the flagship.

The offices of commodore and vice-admiral formerly existed, but are now abolished. The rank of admiral was also abolished, but after the destruction of the Spanish fleet

in Manila Bay, during our war with Spain, Congress revived the grade of admiral, and George Dewey was appointed to the position for life. At his death or resignation this rank will cease to exist. There are now twenty-five rear-admirals in active service.

**Retirement, Promotions, etc.** Naval officers are retired with pensions for life at sixty-two, and may be retired and pensioned earlier if disabled through injury or illness. When a vacancy occurs, the officer of the next lower rank who has longest held that rank is promoted. Seamen, gunners, firemen, etc., who correspond to the private soldiers and non-commissioned officers in the army, are secured by voluntary enlistment for a term of four years.

**The Naval Academy.** The Naval Academy at Annapolis, Md., corresponds to the Military Academy at West Point, and furnishes the navy with its officers. Students at the Naval Academy are called midshipmen, and are, like the cadets at West Point, appointed on the recommendation of the members of Congress, each Congressman having two appointees at the Academy. The President appoints two from the District of Columbia and thirty at large. Those who are admitted must be between sixteen and twenty years old, must have no important physical defects, and must pass a thorough examination in the elementary and some higher branches. The course of study is six years, four at the Academy and two at sea. Midshipmen are entirely supported by the government, and upon graduation are commissioned as ensigns in the navy.

SECTION VIII. CLAUSE 14. *The Congress shall have power to make rules for the government and regulation of the land and naval forces.*

**Rules and Punishments in the Army and Navy.** As Congress by law establishes the army and navy, it properly makes the rules for their government. These are such as

are recommended by military and naval authority. They are read to each recruit at enlistment and to the soldiers and sailors every six months afterward.

The commanding officer at a military post or on ship may inflict light punishment for minor offences. But for serious offences there is a trial by court-martial, composed of a few officers. They may inflict any legal penalty, even death, though severe penalties are subject to the approval of the President.

Members of the army and navy are not subject to trial by juries in the civil courts for military offences, but are always punished for such offences by their officers or by courts-martial. But for civil crimes, except in time of war, the offender must be delivered up to the civil magistrate having jurisdiction of the offence.

SECTION VIII. CLAUSE 15. *The Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.*

**The Militia.** The militia consists of all the able-bodied male citizens of the United States between the ages of eighteen and forty-five. The authorities of each State are required every year to enroll the names of all such citizens in their State; and according to law, first passed in Washington's administration, the President may if necessary call them into active service.

SECTION VIII. CLAUSE 16. *The Congress shall have power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.*

**The Organization of the Militia.** Soon after the adoption of the Constitution a plan was adopted of gathering for military drill on one day of each year all able-bodied male citizens between eighteen and forty-five. This general muster was found to be of no value, and has long been everywhere abandoned. Now the States all have regularly enlisted troops, commonly called the National Guard. These are uniformed and armed exactly like the regular troops of the United States, and are drilled in the same way, but their officers are appointed by the States. There are more than a hundred thousand of these troops in the country. Their main use is to preserve order in their respective States, but in time of war they could be of great service. During the Spanish War the members of the National Guard very generally enlisted in the United States Army.

SECTION VIII. CLAUSE 17. *The Congress shall have power to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.*

**District of Columbia Governed by Congress.** In order to make Congress and the officers of the government independent of any State, this clause puts the government of Washington and the whole District of Columbia entirely into the hands of Congress. The laws for the District are made by Congress, and it is governed by three commissioners, who are appointed by the President, one of them being an officer

of the corps of engineers of the army. They appoint the police, firemen, school board, and other officers. The citizens of the District of Columbia have no votes and no voice in their government. Half of the expenses of the District is paid out of the United States Treasury; the other half is paid by the citizens and property owners of the District.

At the time of the adoption of the Constitution, the Continental Congress held its sessions in New York, and that city continued to be the capital until 1790, when it was removed to Philadelphia. Philadelphia was the capital until 1800, when it was removed to Washington.

The District of Columbia was originally ten miles square, about two-thirds of it being in Maryland and the rest in Virginia. This territory was ceded to Congress by these States in 1790. But Virginia's part was receded to her afterward, and now the District lies wholly within the State of Maryland, but it is not in any sense a part of that State. The District of Columbia is really a Territory, but it is not usually classed as such, because it is governed so entirely differently from the other Territories.

**Post Office Buildings, Forts, etc.** Most Post Offices are in private buildings rented by the government or furnished by the postmasters. But in large towns the government buys land and builds its own Post Offices; it also owns many dock-yards, forts, custom-houses, and other public buildings. In such cases the State Legislatures pass laws giving the control and government of this property to Congress, but the States reserve the right to serve legal notices and to arrest criminals in these places.

SECTION VIII. CLAUSE 18. *And the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.*

**This Enacting Clause Unnecessary.** This clause was intended to settle beyond question the right of Congress to pass all laws necessary to enforce the provisions of the Constitution. But ever since the adoption of the Constitution it has generally been held by the courts and other authorities that the adoption of the Constitution would have authorized Congress to enforce it. The results would probably have been just the same if this clause had been omitted, though there might have been more controversy about it. This clause was most bitterly attacked by those who objected to the ratification of the Constitution. Patrick Henry, who tried very hard to keep Virginia from ratifying the Constitution, called this the "sweeping clause," holding that it was so sweeping in its character that Congress under its authority would overthrow the State governments.

**Implied and Delegated Powers.** After the Constitution was adopted there was no longer any doubt that Congress had the right to exercise the powers clearly and definitely given it by the Constitution. There was, for instance, no doubt that Congress had the right to raise and maintain an army, establish Post Offices, or pass a national bankrupt law. These powers are expressly delegated or given to Congress in the Constitution, and hence are called *delegated powers*. But as soon as the new government got to work, Congress was asked to do things that were desirable and important to the country, but of which there was no mention made in the Constitution. Congress clearly had the right to regulate commerce with foreign nations, but had it the right to build light-houses and deepen harbors, so as to make commerce safe, when there is no mention in the Constitution of light-houses or harbors? There was no doubt that Congress could lay and collect duties on imported goods in order to pay the debts of the United States, but could it establish such a tariff to protect American manufactures? Such powers are called *implied powers*, that is, the powers which are implied in the rights expressly given to Congress.

**Strict Constructionists and Loose Constructionists.** From the very beginning of our present form of government men differed as to the

implied powers of Congress. While very few statesmen entirely denied the possibility of implied powers, very many denied all but such as were clearly implied in the Constitution, or as were essential to carrying out the provisions of the Constitution. Such men wished to confine the powers of Congress just as strictly as possible to those laid down in the Constitution, and so were called *strict constructionists*. Other men wished to give Congress just as many useful powers as they could possibly find excuse for in the Constitution. They were called *loose constructionists*. Alexander Hamilton, the Secretary of the Treasury in Washington's Cabinet, was the first great leader of the loose constructionists; and Thomas Jefferson, the Secretary of State in Washington's Cabinet, was the first leader of the strict constructionists. The controversies between these two men and their adherents soon gave the country two political parties, and the essential difference between the two political parties in this country has ever since been based on this question. The Republican Party of to-day is the direct descendant of Alexander Hamilton and his loose constructionists, while the present Democrats are the followers of Thomas Jefferson and his strict construction views. There have often been other temporary differences and frequent inconsistencies and departures from the principles of their parties to catch votes, but the underlying differences between the two great parties in this country has always been as to the strict or loose construction of the Constitution, and from the form of our government this is likely to continue to be the case.

## CHAPTER IX.

### POWERS DENIED TO CONGRESS.

ARTICLE I. SECTION IX. CLAUSE 1. *The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*

**Powers Forbidden Congress.** For some time we have been learning the powers of Congress. This section of the Constitution gives the prohibitions on Congress; so we shall now learn what Congress must not do.

**The Slave Trade.** This clause refers to the foreign slave trade and was the third great compromise in the Constitution. The word "persons" was purposely used to avoid using "slaves" or "slavery," which are not found in the Constitution. Slavery once existed in every one of the thirteen original colonies, and when the Constitution was made it had been entirely abolished in Massachusetts only. But it was fast dying out in all the Northern States, and even in Delaware, Maryland, and Virginia there was a general feeling against it. But North Carolina, South Carolina, and Georgia wanted more slaves, and insisted that a clause be put in the Constitution to prevent Congress from stopping the foreign slave trade. The other States objected to such a clause, but finally they compromised the matter by allowing Congress to

stop the slave trade in 1808, or twenty years after the adoption of the Constitution.

**Newly Imported Slaves Might be Taxed.** The Constitution allowed Congress to lay a tax on each new slave thus brought in during these twenty years, but carefully prevented such a tax from being excessive or prohibitory, by limiting it to ten dollars per head. Congress never exercised its right to tax the slaves imported at this time.

It will be noticed that this clause only prevents Congress from stopping the importation of foreign slaves into the "States now existing," or the thirteen original States; so that Congress might at any time have passed a law prohibiting the importation of slaves into the new States formed during those twenty years. But this was not done. It will also be noticed that slaves must be allowed to be imported to such States as "shall think proper to admit" them. As a matter of fact, all of the thirteen original States except North Carolina, South Carolina, and Georgia had prohibited the foreign slave trade when the Constitution was adopted.

**The Slave Trade Stopped.** Before January 1, 1808, Congress passed a law forbidding the importation of any more slaves after that date, under severe penalties; and in 1820 a new law was passed declaring the slave trade to be piracy and punishable by death. This did not, of course, free the slaves who were already here, which was only finally done by the Thirteenth Amendment to the Constitution in 1865. Nor did this law forbid the sale of slaves from one State to another, which was constantly done as long as slavery lasted.

SECTION IX. CLAUSE 2. *The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.*

**Writ of Habeas Corpus.** A writ is a written or printed order sent by a judge, or other legal authority, commanding the person to whom it is sent to do a certain thing. These writs were once in Latin; and some of them are still called by the

important Latin words which were then in them. The Latin words *habeas corpus* mean "you may have the body." And a writ of habeas corpus is an order from a judge to a jailer to bring some prisoner before the judge. When the prisoner is thus brought before him the judge examines the case, and if the prisoner should be set free the judge frees him; if not, the jailer takes him back to prison.

The writ of habeas corpus is also used to bring children before a judge that he may decide a dispute as to who has the right to them; and sometimes it is used to bring before a judge a person who has been confined in an insane asylum, that he may decide whether the person is really insane.

The writ of habeas corpus is an exceedingly important safeguard against unjust imprisonment. It came to us from England, where it has been one of the most valued rights of the people from very early times. Its continuance was guaranteed to the English people in the Magna Charta, the great charter of liberties which King John was forced by his subjects to give them in 1215. It was in force in the American colonies before the Revolutionary War. So valuable a right was sure to be secured to the American people in their Constitution.

**Habeas Corpus Frequently Used to Secure Release of Prisoners on Bail.** When a person is taken before a justice of the peace or a magistrate, charged with any very serious crime, if there is strong evidence against him, the magistrate must send him to jail until he can be tried in court, and cannot let him go on bail until the time of his trial, as he may do when lesser crimes have been committed. In such cases the prisoner's lawyer may get the judge to bring the prisoner before him on a writ of habeas corpus, and the judge may release him on bail until his trial comes off. Prisoners awaiting trial generally have the right to get out on bail, except when charged with crimes which may be punished with death.

**The Suspension of the Writ of Habeas Corpus.** The right of any prisoner to have the justice of his imprisonment carefully examined into is so important that it is here provided in the

Constitution that the writ of habeas corpus can be suspended only in times of rebellion or invasion by a foreign army, when the public safety may require it. Except under such circumstances, neither the President nor any military or other power can prevent a judge from sending for any prisoner whose trial is to come in his court, and admitting him to bail or setting him entirely free, if he believes this to be just.

But in time of rebellion or invasion it might be necessary to the safety of the country to imprison suspicious characters, and to refuse to allow judges to take them from prison and set them free for lack of proof against them, as some judges might do.

**Who May Suspend the Writ of Habeas Corpus.** The Constitution does not say whether it is the President or Congress that has the right to suspend the writ of habeas corpus. But as all the other clauses in this section are prohibitions on Congress, it would seem that the makers of the Constitution intended to put the matter into the hands of Congress, and it is now agreed that this power belongs to Congress and not to the President. But early in the Civil War President Lincoln, without the authority of Congress, directed military officers in various parts of the country not to give up prisoners arrested on charges of disloyalty, even if judges issued writs of habeas corpus for them. Congress afterward passed a law legalizing these acts and giving him power to continue to suspend the writ of habeas corpus in this way.

While a jailer is compelled to obey a writ of habeas corpus and bring a prisoner before a judge having jurisdiction over the case, the judge is not compelled to grant such a writ merely because it is asked for. It is customary, however, for the judge to grant it, and to give the prisoner a hearing whenever it appears that it would be unjust to the prisoner not to do so.

SECTION IX. CLAUSE 3. *No bill of attainder or ex post facto law shall be passed.*

**A Bill of Attainder.** A bill of attainder is a bill passed by a legislative body punishing a man without giving him a trial

in court. When the Constitution was made the British Parliament had the right to do this, and so frequently had men been unjustly condemned to death in this way by Parliament that this provision was put into the Constitution to prevent Congress from ever passing a bill of attainder.

**Ex Post Facto Laws.** An ex post facto[1] law is a law which makes an act criminal that was not criminal when it was committed. And a law which increases the punishment of any crime after that crime has been committed is also an ex post facto law. It would clearly be unjust to punish a man for something which, according to the law existing when the act was committed, was not criminal. But a law decreasing the punishment of a crime after it was committed would not be an ex post facto law, and might be passed by Congress.

This refers only to criminal laws, and not to laws concerning debts or property. A little farther on under the clause forbidding the States to pass laws impairing the obligations of contracts, it will be shown that Congress may pass civil laws corresponding to ex post facto laws.

SECTION IX. CLAUSE 4. *No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.*

**Poll Tax.** A capitation tax is a poll tax, that is, a tax not upon a person's property, but upon the person himself, each person thus taxed paying the same tax, whether rich or poor. As the Constitution had already provided that direct taxes should be apportioned among the States in proportion to their population; and in estimating the population of the slave States only three-fifths of the slaves were to be counted, this clause would prevent Congress from ever making a poll tax include more than three-fifths of the slaves. As a matter of fact, Congress has never laid a poll tax, but some of the States have laid poll taxes or have authorized counties or other municipalities to do so. This clause

[1] Ex post facto is a Latin phrase meaning "after the deed is done."

applies only to taxes laid by Congress, and would not have prevented the Legislature of a slave State from laying a poll tax on all its slaves.

SECTION IX. CLAUSE 5. *No tax or duty shall be laid on articles exported from any State.*

**Export Duties Prohibited.** Goods imported into the United States may be, and generally are, taxed, but this clause absolutely forbids laying taxes on any goods as they are sent out of the country. Civilized countries are now generally agreed that export duties so interfere with the sale of what people produce or make that they are an unwise way to raise taxes.

**The Second Compromise of the Constitution.** This clause is a part of the second great compromise of the Constitution. The Northern States, which were especially interested in foreign commerce, were very anxious that Congress, and not the individual States, should control commerce. The Southern States were agricultural, and several of them at that time depended almost entirely upon one or two products, South Carolina, for instance, upon rice. These States feared that some time a Congress hostile to them might lay such an export duty upon their products as would increase their price in foreign markets, so that they could not be sold there at all. This would ruin the industries of those States. So the Southern States agreed to support the Northern States in giving Congress control of commerce, if the Northern States would unite with them in forbidding Congress to lay any export duties. And Clause 3 of Article I., Section VIII. (see p. 63), was the result of this compromise.

SECTION IX. CLAUSE 6. *No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.*

**No Preferences Among Seaports.** We have already seen that all import duties must be uniform throughout the United States, and Congress is here forbidden to pass any law favoring the ports of one State over those of another. The laws regulating commerce must be the same at all our seaports.

**Entering and Clearing Ships.** Entering a ship in a port means reporting her arrival, cargo, etc., at the custom house. Clearing a ship is receiving from the custom house authorities permission to leave the port. All ships coming from foreign ports must enter, and all ships sailing to foreign ports must clear. But American ships go from one port to another in the United States without entering or clearing. A ship which is bound to or from one port cannot be made to enter, clear, or pay duties at another.

The last part of this clause was put into the Constitution at the request of the delegates from Maryland. As the Chesapeake Bay runs through the State of Virginia, the Maryland delegates feared that ships from Baltimore might be obliged to stop at Norfolk or some other Virginia seaport on their way to and from the ocean. This clause prevents the possibility of such a thing there or elsewhere.

Only American ships may engage in the coasting trade, that is, may carry passengers and goods between ports in the United States. And, in order to give business to American ship-builders, the laws require American ships to be built in American ship-yards. So all our coasting, lake, and river boats must be built in the United States. But both American and foreign ships may engage in foreign trade, and, since labor and ship materials are cheaper abroad than here, almost all of our foreign commerce is now carried in foreign ships.

SECTION IX. CLAUSE 7. *No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.*

**How the Nation's Money is Spent.** This clause is strictly observed and the United States Treasury is carefully and honestly managed. Congress may make unwise and extravagant appropriations, but the Treasurer of the United States pays out no money except as authorized by law. A large part of the time of each session of Congress is spent in considering and passing the appropriation bills, and one of the most important committees of each House is the Appropriation Committee, which prepares these bills for the consideration of Congress. Each year the Secretary of the Treasury publishes a full and accurate account of all the government's receipts and expenditures.

SECTION IX. CLAUSE 8. *No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.*

**Titles of Nobility Forbidden.** Titles of nobility[1] have been so universally associated with monarchical governments that the makers of the Constitution determined that none should ever be granted by the United States. This does not prevent private citizens of the United States from receiving titles of nobility from the monarchs of foreign countries, and such titles have sometimes been granted. The clause does,

[1] In England the nobility consists of dukes, marquises, earls, viscounts, and barons (who are all members of the House of Lords), baronets, and knights. The last two have the title Sir. Except in the case of a knight, a nobleman's title at his death descends to his eldest son or other nearest male relative. Titles in England are conferred by the sovereign. Similar titles are found in the other countries of Europe, and wherever they exist their possession is highly esteemed.

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however, forbid any government official to accept such a title without the consent of Congress.

**Presents to Government Officials.** Government officials are also forbidden, unless Congress gives permission, to accept presents, pay (emoluments), or offices from foreign states or their rulers. This is clearly proper, otherwise our officials might be bribed to favor the interests of other countries rather than of their own. Congress has repeatedly given officers permission to accept such presents when no harm could come from doing so. But such gifts to the President or to other prominent officials are usually courteously received and permanently deposited in the White House or elsewhere in the custody of the government.

This clause does not prevent private American citizens from receiving presents from foreign rulers, nor from accepting offices from foreign governments. Nor does it forbid office-holders to accept presents from private citizens here or abroad, although a self-respecting officer will always be careful not to accept gifts which could influence him from doing his duty, or could even be suspected of exerting such influence.

## CHAPTER X.

### POWERS DENIED TO THE STATES

SECTION X. CLAUSE 1. *No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.*

**Powers Forbidden the States.** The last chapter told what Congress must not do. This chapter tells what the States must not do. It will be noticed that these powers are such as should naturally and properly be exercised not by any one State acting alone, but by all the States acting together. The only way therefore is to give them into the hands of the national government. All of these powers, unless somewhere in the Constitution they are forbidden entirely, belong to the national government.

**No State Shall Enter into any Treaty, Alliance, or Confederation.** It is evident that all treaties with foreign nations should be made by the national government. Individual States have no dealings with foreign nations. Any controversy which any State or the citizen of any State may have with a foreign nation is carried on through the national government. This clause also prevents States from making treaties or alliances among themselves. Two or more States could

not, for instance, agree to pass uniform divorce laws, or other State laws.

**No State Shall Grant Letters of Marque or Reprisal.** It will be remembered that letters of marque and reprisal are permits given in time of war to private citizens authorizing them to seize or destroy the enemy's property, especially at sea. If any State should do this it would be liable to involve the whole country in war. If letters of marque and reprisal are issued at all, and they are now rarely resorted to, it should evidently be done only by the national government.

**No State Shall Coin Money.** It is very important that the money everywhere in the United States should be of the same kind, and of the same value. The only way to have uniform money was to take away from the States all right to coin money and to give this right to the national government.

**No State Shall Emit Bills of Credit.** Bills of credit are paper money. During the Revolutionary War the various States issued large amounts of paper money, which decreased in value until it finally became worthless and caused the people much loss. This clause forbids any State to issue such money, and as the States cannot coin money they issue no money of any kind. All our money is issued by the national government or by banks authorized by it to do so. The United States is not forbidden to emit bills of credit, and the treasury notes, a common kind of paper money, are bills of credit issued by the United States. They were never issued, however, until the time of the Civil War.

**No State Shall Make anything but Gold or Silver Coin a Tender in Payment of Debts.** As has already been explained, legal-tender money is money which a man is obliged to accept in payment of obligations due him. This clause prevents the States from compelling creditors to accept payment in paper

money. Colonial currency, which rapidly depreciated, was issued by the States during the Revolutionary War, and down to the time of the Civil War private banks were authorized by the States to issue paper money. Where people had confidence in these banks, their notes were taken in payment of debts as readily as gold or silver, but in many of them the people did not have confidence, and they refused to take these notes at all or took them at a discount. On account of this clause in the Constitution, the States could never compel people to take these notes.

**Congress May Make Paper Money a Legal Tender.** This clause only prohibits the States from making anything else than gold or silver coin a legal tender. Nor does the Constitution anywhere forbid Congress to do this. Congress has, therefore, assumed the right to make the treasury notes a legal tender for private as well as public debts, as will be seen by reading the inscription on the back of such a note, and the Supreme Court of the United States has confirmed its right to do this.

**Such Power was Probably not Intended.** The best authorities have generally held that those who drew up the Constitution did not intend to give Congress the right to make paper money a legal tender; but that having carefully forbidden the States to do this, they were so sure that Congress would never do it that they felt it to be unnecessary to prohibit it. No attempt in this direction was made by Congress until during the Civil War, when the need of money to carry on the war was great. Congress first issued such money (the greenbacks), and made them a legal tender to compel people to take them. But there was so much doubt of the constitutionality of this action, as well as doubt whether the government would ever be able to pay this and the rest of the great debt incurred during the war, that these notes depreciated very much in value, and were at one time worth but little more than one-third as much as gold. When the war ended and the credit of the United States improved, the treasury notes increased in value, and when the government

began to redeem them in gold, they had and still have the same value as gold. The Supreme Court of the United States has decided that since the Constitution does not expressly forbid Congress to issue these legal-tender notes, and since this is one of the powers belonging to sovereignty in other civilized nations, therefore Congress had the right to issue them. As this decision has finally settled the matter, it looks as if we should continue to have a limited amount of paper money, as well as gold and silver coin, a legal tender in this country.

**The Constitution does not Require Silver to be Made a Legal Tender.** In recent years many advocates of the free coinage of silver have insisted that this clause (the only place where the word silver occurs in the Constitution) requires Congress to maintain a silver coinage and make it a legal tender. But it needs only a careful reading to make it clear that it simply forbids the States to make anything but gold or silver coin a legal tender, and leaves Congress free to make silver, or gold either, a legal tender or not, as it pleases. There is no more reason for assuming that Congress must continue to coin silver and make it a legal tender because the Constitution says that "*no State shall make anything but gold or silver a legal tender*" than for assuming that Congress must grant letters of marque and reprisal because the Constitution says that "*no State shall grant letters of marque and reprisal.*"

**No State Shall Pass any Bill of Attainder or Ex Post Facto Law.** Although Congress has, in a previous clause, been forbidden to pass bills of attainder or ex post facto laws, that prohibition would not prevent the State Legislatures from passing them. This clause also forbids the States to pass such laws; so they cannot be passed at all in this country.

**No State Shall Pass a Law Impairing the Obligation of Contracts.** A contract is an agreement between two parties. To impair a contract is to release one party from his agreement. When two men have made an agreement or bargain which they had a right to make, a State cannot pass a law which will allow either party to break that bargain.

The practice of allowing customers to return purchases with which they are dissatisfied, which is so general in the great department stores

and elsewhere, is liable to make us believe that we have a right to demand the return of our money if we return our purchases uninjured. But this practice is purely voluntary, and when one has bought an article, unless there was an agreement to that effect, he cannot compel the seller to take back the article and refund his money, except when there was a misrepresentation or fraud in the sale. As we often say, "A bargain is a bargain."

**The Dartmouth College Case.** One of the most important lawsuits ever tried in the United States, the Dartmouth College Case, arose under this clause of the Constitution. Early in the last century the Legislature of New Hampshire passed an act changing the charter which it had previously granted to Dartmouth College. The college appealed the case to the Supreme Court of the United States, which decided that the change of the charter would violate this clause of the Constitution and therefore could not be made.

**Congress May Pass a Law Impairing the Obligation of Contracts.** There is nothing in the Constitution forbidding Congress to pass laws impairing the obligation of contracts, in matters which come under its jurisdiction, and the right to pass bankrupt laws expressly authorizes Congress to impair contracts by releasing bankrupts from the necessity of paying the remainder of their debts, after what property they have at the time of their bankruptcy has been divided among their creditors.

This clause clearly prohibits the passage of bankrupt laws by the States. But the Supreme Court has decided that the States may pass laws affecting future contracts, and many such laws have been passed by the various State Legislatures.

**No State Shall Grant any Title of Nobility.** This supplements the previous clause forbidding Congress to grant any titles of nobility, and completely prevents the establishment in this country of any such class distinctions.

SECTION X. CLAUSE 2. *No State shall, without the consent of Congress, lay any imposts or duties on imports or*

*exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.*

**Congress Lays and Collects all Duties on Imports.** The question of duties on imports and exports was one of the most important that came before the Constitutional Convention. Before the adoption of the Constitution each State fixed and collected its own duties. The Constitution took the laying of duties on imports entirely away from the States and gave it to Congress. This made these duties the same at all seaports, and gave the treasury of the United States its most important source of revenue. As we have already seen, the Constitution entirely forbids duties on exports.

**A State May Lay Sufficient Tax on Imports to Pay for Their Inspection.** In order to protect its own citizens a State may provide for the inspection of things brought into the State. For instance, cattle may be examined before being brought into a State, to see that they have no contagious diseases, and the State may lay just enough tax upon the cattle or other things thus brought in to pay for the inspection. But for fear that this might be made a pretext for raising revenue for the State all money thus collected, which is not used to pay for the inspection, must be paid into the United States treasury.

SECTION X. CLAUSE 3. *No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into an agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.*

**Tonnage Duties.** The tonnage of a ship is the number of tons of freight it can carry. Duty on tonnage is a tax laid on ships in proportion to their tonnage or size. The Constitution has elsewhere given Congress the right to regulate the commerce with foreign nations as well as among the States, and this clause prevents any State from interfering with commerce by taxing ships in this way.

**State Troops, etc.** It is evident that it is the business of the national government alone to carry on wars or to make treaties with foreign countries. There is, therefore, no need for any State to have a standing army or ships of war, and they would endanger the peace of the country. The State militia, composed of private citizens equipped and drilled as soldiers, preserves the peace in the State, and might in an emergency defend the State until the President sent the United States troops for its defence. If the States were allowed to make agreements among themselves, some of them might combine to favor each other to the detriment of the rest.

## CHAPTER XI.

### THE PRESIDENT AND HIS ELECTION

ARTICLE II. SECTION I. CLAUSE 1. *The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows:*

**One Executive.** The executive department of a government enforces the laws which the legislative department has made. It takes many Congressmen to make our laws, as it should; for many Congressmen are necessary to represent all parts of the country, and to make such laws as the people want. But to carry out laws one person is best. If there were several executives, they would often disagree among themselves as to how the laws should be carried out, and when they were not carried out each one would throw the blame on the others, so that no one could be held responsible for their failure. So the makers of the Constitution wisely put the duty of enforcing the laws into the hands of one man, and chose for him the title of President, and since then republics everywhere in the world have called their chief executives Presidents.

**Term of Office.** The President is elected for four years. There is nothing in the Constitution to forbid his re-election for a second term, nor even for a third or fourth term. Washington, however, after serving two terms as President refused to allow himself to be elected for a third term, and

THE WHITE HOUSE, WASHINGTON

there is a general feeling that no President should serve longer than two terms, and none has ever been elected more than twice. A majority of the Presidents elected who lived through their first term have been re-elected.

**One Term Might be Better.** The Constitutional Convention at first decided to make the President's term of office seven years and to forbid his re-election. But near the end of its session the term was made four years, and the prohibition of his re-election was dropped. Many persons now believe that the first plan would have been better for the country. There has never been a President who did not desire a re-election, and probably never will be one. A President can hardly avoid using the power of his office to further his re-election to a second term, and even if he should entirely avoid it, his friends and the thousands of office-holders whom he has appointed are certain to use their power and influence, and make many voters believe that they can also use the President's power to aid his re-election. There is a general belief that if the President should be restricted to one term, it should be longer than four years, for it takes the President some time to learn the many and important duties of his office and how best to perform them. And frequent changes in this important office are unlikely to be for the best interests of the country. Several of the States have in recent years so changed their constitutions as to prevent their Governors from being re-elected, or at least from being re-elected until someone else had served a term as Governor.

SECTION I. CLAUSE 2. *Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. But no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an Elector.*

**How to Elect the Presidents.** The Constitutional Convention had great difficulty in deciding how the President should be chosen. It did not have enough confidence in

the intelligence and wisdom of the common people to let them elect by a popular vote. It decided not to let Congress elect for fear that the President might be under the control of Congress after his election. Finally, the Convention decided to have each State select a few men to be Presidential Electors, who should select the President and the Vice-President.

**Choosing Presidential Electors.** The legislature of each State decides how the Presidential Electors of that State shall be chosen. At first they were generally chosen by the State Legislatures, and in South Carolina this was done down to the Civil War. But now in every State the Presidential Electors are elected by popular vote. They are elected on a State ticket, each voter voting for as many electors as there are Senators and Representatives from his State.

This mode of election gives all the Presidential Electors of a State to one political party, and no matter how large the minority party in that State may be, it can choose no Electors and has no voice in the election of a President. In 1888 the Republicans elected a majority of the Presidential Electors, and consequently Harrison, the Republican candidate, was elected President, and Cleveland, the Democratic candidate, was defeated. Yet the Democratic Electoral candidates had received almost a hundred thousand more votes than the Republican candidates, because the States which elected Democratic Electors gave them larger majorities than the Republican States gave their electors.

If the States could be prevented from gerrymandering the Congressional districts, it would be fairer to have each Congressional district elect one Presidential Elector and let the State at large elect only the two Electors to whom its Senators entitle it.

**Number of Presidential Electors.** Each State has as many Presidential Electors as it has members of Congress. This gives the small States an advantage over the large ones, for every State has two Senators and at least one Representative.

By the last census the population of New York was 7,268,894 and that of Nevada 42,335. New York has thirty-nine Presidential Electors, Nevada has three. So New York has one Elector for about 186,000 persons, while Nevada has one for 14,000 persons.

**Office-holders Cannot be Presidential Electors.** No Senator or Representative, or person holding any United States office can be a Presidential Elector. This was intended to lessen the influence of Congress and office holders in the selection of a President.

This also shows that members of Congress, strictly speaking, are not officers of the United States.

SECTION I. CLAUSE 3. *The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate.*

*The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed.*

*And if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing*

*the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.*

*The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.*

**Voting for President.** At the so-called Presidential election in November the voters do not elect a President, but elect in each State a committee, equal in number to that State's representation in Congress, who are the Presidential Electors for that State. About two months after the November election the Presidential Electors of each State meet at the capital of their State and vote by ballot for President and Vice-President.

The Constitution requires that the Electors shall meet and vote in their own States, but where in the State they shall meet is fixed by the government of each State. At present the Electors meet at the State capital in every State except Rhode Island, where they meet in Bristol.

**Presidential Electors Always Vote for the Candidates of their Political Party.** The framers of the Constitution intended and expected the Presidential Electors to be free to exercise their own judgment in electing the President. They believed that in this way a wiser choice would be made than if the President were chosen directly by the people. But this expectation has completely failed in practice. Each political party chooses candidates for President and Vice-President several months before the election, and also selects in each State members of its own party to be voted for as Electors. Those who are chosen Electors always vote for the candidates of their party. So the Electors really have no choice of their own, and the people practically elect the President, but do it indirectly, by appointing Electors in each State to vote for a President as they are instructed by the people.

**A Dangerous Possibility.** Although it is understood that the Presidential Electors who may be chosen in any State will vote for the Presidential candidate of the party which elected them, yet there is no way to compel them to do this, and they could vote for anyone else. And it is not impossible that at some close election enough Electors might be persuaded or bribed to vote for the opposition candidate to effect his election, in spite of the fact that the other party had elected a majority of the Electors. Such a proceeding would seriously endanger the peace of the country, if not the government itself. And to avoid such a possibility, it would seem to be wise so to change the Constitution as to make it impossible for a Presidential Elector thus to defeat the will of the voters who elected him.

In the Presidential election of 1876, Hayes, the Republican candidate, received one hundred and eighty-five Electoral votes, and Tilden, the Democratic candidate, one hundred and eighty-four votes. If one Re-

publican Elector had been induced to vote for Tilden he would have been elected.

**One Restriction on the Electors' Vote.** The Constitution expressly forbids the Electors of any State to vote both for a President and a Vice-President from their own State. This makes it unlikely that both President and Vice-President will come from the same State, although it does not absolutely prevent it. For instance, the Electors from the other States could elect both the President and Vice-President from New York. But as the New York Electors could vote for but one of them, no political party would select both its candidates from that State, and take the risk of losing New York's votes for one of its candidates. And even without this provision in the Constitution, any political party would be sure to select its candidates from different States, so as to secure more votes for its ticket.

**Three Reports of the Electors' Votes.** On the second Monday in January the Presidential Electors meet at the State capital and vote by ballot for President and Vice-President, though this is now a mere form, since they always vote for the candidates of their party. Three reports of this vote are made: one is sent by mail to the President of the Senate at Washington; another is sent to the President of the Senate by a special messenger, usually one of the Electors; the third is sent to the United States District Judge,[1] whose judicial district includes the State capital.

Since the Constitution puts the manner of the appointment of the Electors in the hands of the States, each State makes its own regula-

[1] If the first and second reports both fail to reach Washington within two weeks, the Secretary of State sends for the report deposited with the District Judge.

tions as to how its Electors shall do their work. The State usually provides that any vacancy in the Electors shall be filled by the other Electors; that the expenses of the Electors and of the messengers to the President of the Senate and the District Judge shall be paid out of the State treasury, etc.

**Counting the Votes.** On the second Wednesday in February the Senators and Representatives meet in the hall of the Representatives to count the votes. The President of the Senate presides and opens the envelopes containing the reports of the votes of the Electors of the different States. These are counted by tellers appointed from both Houses and both political parties, and the result is announced by the President of the Senate. The person who has a majority of all the Electoral votes for President is elected President, and the one who has a majority of all the Electoral votes for Vice-President is elected Vice-President.

The Constitution only says: *The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be President, etc.* It does not give the President of the Senate the right to count the votes or to decide who is elected. If it did, the President of the Senate might, in deciding a dispute as to certain votes, really decide who should be President. All disputes which arise concerning the counting of the Electors' votes are decided by agreement of the Senate and the House of Representatives, or by rules which they have previously made.

There is no provision for notifying the successful candidates of their election. The announcement of the vote by the President of the Senate ends the election proceedings, and the newspapers notify everybody of the result.

**When the Electors Fail to Elect a President.** The Constitution requires the President to have a majority of all the Electors' votes. In case these votes are evenly divided between

two candidates, or so divided among three or more candidates that no one has a majority, there is no election by the Electors. In such a case the House of Representatives elects the President. Only the three men who had the greatest number of Electoral votes can be voted for. Each State has but one vote, which is cast by ballot. Two-thirds of the States must vote and a majority of the States must vote for one person to elect him. Two Presidents have been elected in this way by the House of Representatives, Thomas Jefferson in 1801, and John Quincy Adams in 1825.

The Representatives from each State decide how their State's vote shall be cast when they vote for the President. If a majority of the Representatives are Democrats, the State votes for the Democratic candidate. If a majority are Republicans, the Republican candidate gets the vote. And if the Representatives are half Democrats and half Republicans, that State casts no vote. When Jefferson was elected by the House of Representatives in 1801, two States were thus equally divided and cast no votes.

The House of Representatives which elects the President in such a case is not the one which was chosen at the time of the Presidential election in the previous November, but the one chosen two years before, and, therefore, less likely to represent the will of the people at the time of the Presidential election.

**Failure to Elect a Vice-President.** If no one has a majority of the Electors' votes for Vice-President, the Senate elects one from the two candidates having the highest Electoral votes. As each State has two Senators the States all have an equal voice in the election by allowing each Senator to vote, but two-thirds of the whole number must vote, and a majority of the Senators is necessary for a choice. And when the duty of electing a President falls upon the House of Representatives, if it should fail to elect before the fourth of March, the newly elected Vice-President would then become

President for the next four years. Richard M. Johnson was elected Vice-President by the Senate in 1837. Now party lines are so closely drawn that President and Vice-President are sure to be both elected by the Electors if one of them is.

It will be noticed that in case of an election by Congress any one of the three highest candidates for President may be voted for, but only the two highest candidates for Vice-President are eligible. In case the votes of the various States should continue to be so divided among the three candidates for the Presidency, that no one of them got a majority before the fourth of March, only the rare possibility of a continued evenly divided vote in the Senate would prevent the election of a Vice-President to take his place. If by some rare chance both Houses should fail to elect, there is nothing in the Constitution to provide for a President after the fourth of March, and no one can foretell what would be done in such an emergency. Probably a knowledge of this fact would always secure the election either of a President or a Vice-President.

**The Change in Manner of Electing President and Vice-President.** The manner of electing the President and Vice-President is not the one first adopted and used. The Constitution originally provided that each Presidential Elector should vote for two persons, without saying which should be President and which Vice-President. When the votes of the Electors were counted, the person having the greatest number of votes was to be President (provided a majority of the Electors had voted for him), and the person having the next highest number of votes was to be Vice-President. The first four Presidential elections were held in this way, but in 1800-1 all the Democratic Electors, who were in a majority, voted for both Jefferson and Burr, so that these two had each a majority of the Electoral votes, but neither was elected, for they had the same number of votes. After a serious dispute and much excitement the House of Representatives elected Jefferson President, and Burr Vice-President. And to avoid like trouble in the future the Constitution was amended to its present form. The present mode of electing the President, which has been given and explained in the last few pages, is the Twelfth Amendment to the Constitution. The old method is given in full in the text of the Constitution.

**Majority and Plurality Voting.** To be elected by a majority vote means that the person elected must have a majority of all the votes cast,

and he, therefore, has more votes than all the other candidates put together. But to be elected by a plurality vote one need only have more votes than any other candidate, and does not necessarily have even half of the votes cast. It will be noticed that the President and Vice-President must have a majority whether elected by the Electors or by Congress, and formerly a majority vote was generally required in all elections. But the difficulty of getting a majority for one person, when there were three or more candidates, has caused an almost universal change to elections by pluralities. In every State the Presidential Electors are themselves chosen by pluralities, although they can only elect a President by a majority vote. And members of Congress as well as State and municipal officers are now generally elected by pluralities.

**The Hayes-Tilden Election.** A very serious dispute between the two great parties arose over the Presidential election of 1876. Both parties claimed to have chosen the Presidential Electors in Florida, Louisiana, and also one of the Oregon Electors. And both sets of Electors in these States sent their votes to the President of the Senate. If the votes of all the Republican Electors in those States were counted they would elect Hayes, the Republican candidate, by one vote; if the vote of even one Democratic Elector from these States was counted, it would elect Tilden, the Democratic candidate. Under the Constitution the President of the Senate had no power to decide which votes should be counted, and, as the House was Democratic and the Senate Republican, they would not agree upon a joint rule that would give the election to either party. Finally it was agreed to refer the matter to a committee of five Senators, five Representatives, and five Justices of the Supreme Court. They decided, by a vote of eight to seven in each case, that the Republican Electors had been legally chosen in each of the three States. Their votes were accordingly counted, and Hayes was elected by one hundred and eighty-five votes to one hundred and eighty-four for Tilden. The Democrats acquiesced, but were bitterly dissatisfied with the result. The peaceful acceptance of this decision demonstrated the great stability of our government.

**How Such a Dispute Would Now be Settled.** The Electoral Commission which decided the Presidential election of 1876 was only a temporary expedient, adopted for that one occasion, and the bitter feeling that its decision aroused in the Democratic party made it certain that such a plan would not be agreed upon again. For the permanent settle-

ment of similar disputes in the future, Congress in 1887 passed a law[1] providing that thereafter:

The authorities of each State shall decide which of two or more bodies of Presidential Electors were chosen.

If but one body of Electors, apparently properly chosen, have sent in votes for President and Vice-President, such votes shall be counted, unless both Houses of Congress, voting separately, agree to reject them. If from any State two or more bodies of Electors have sent in votes, those shall be counted which were sent by the Electors who were declared by the proper State authorities to have been legally chosen.

But if the question is raised as to which of these two or more bodies of Electors sending in votes from the same State has been properly elected, neither set of votes shall be counted, unless both Houses of Congress, voting separately, agree upon one.

**Presidential Nominations.** As has been said, the expectation of the framers of the Constitution that the Presidential Electors would vote for the best men, without regard to party or other bias, has completely failed in practice. Now, several months before the Electors are chosen, each party selects a Presidential and a Vice-Presidential candidate. For this purpose each party holds a great national convention in some leading city. The smaller parties have various plans of making up their conventions, but the Republican and Democratic national conventions are made up of two delegates for each Senator and Representative. Each Territory, including the District of Columbia, is also entitled to six delegates, the same as the smallest States. These delegates are chosen beforehand by their parties, the four representing the two Senators being chosen by party conventions held in the various States. The Representative delegates in some States are also chosen by the State conventions, but in others they are chosen by the Congressional districts. In the Republican convention

[1] For the full text of this law see Appendix (p. xxi).

a majority of the delegates nominates the candidates, but in the Democratic convention a two-thirds vote is necessary for a nomination.

At the first two elections there were no nominations and Washington was elected unanimously both times. After that, the usual plan was for the Congressmen of each party to nominate the party's candidates for President and Vice-President. The first national nominating convention was held by the Anti-Masonic party in 1831, and since 1836 all parties have nominated their candidates by such conventions. The different parties in each State also nominate candidates for Presidential Electors. The two Senatorial Electors are nominated by the State convention, and the Representative Electors either by the State convention or by the party in the Congressional districts, according to the rules of each party.

**The National Committees.** Each of the great parties appoints a national committee, of one member from each State and Territory, to conduct its political campaign, and to elect as many as possible of the Presidential Electors. Each State's delegates to the national convention appoint the member of the national committee from their State. The chairman of the committee is practically selected by the Presidential nominee. These committees, and especially their chairmen, are very important factors in a Presidential campaign.

SECTION I. CLAUSE 4. *The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.*

**Election Day.** By having all the Presidential Electors chosen on the same day, the result of the election in one State cannot influence the election in another, and it largely prevents "repeating," that is, having men vote for Electors in one State and then moving them to another State to vote for the same party's Electors there. Congress has fixed the next Tuesday after the first Monday in November for the Presi-

dential election. And, unless the election should be very close, on the day after the election the whole civilized world knows who is to be the next President of the United States. The Presidential election always comes in Leap Year.

As has already been mentioned, the Electors meet at their State capitals and vote for President and Vice-President on the second Monday in January. Although this is the day the President is actually elected, not a vote having been cast for him in November, yet the people generally have no concern about it and generally no knowledge of it, so thoroughly is it now settled that the Electors chosen in November are merely the agents of their parties and will vote for the party candidates. The counting of the Electors' vote by Congress, a month later, on the second Wednesday in February, is the last step in the most important election now held in the world.

SECTION I. CLAUSE 5. *No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.*

**The Qualification of Birth.** It is evidently proper that the Constitution should require the President to be a natural-born citizen of the United States. The President and Vice-President are the only officers of whom this is required. The exception in favor of citizens at the time of the adoption of the Constitution was made on account of the many patriotic citizens of foreign birth who had distinguished themselves in the Revolutionary War and in the founding of the government. It was probably made especially on account of Alex-

ander Hamilton, of New York, and James Wilson, of Pennsylvania, both of foreign birth, who were members of the convention that framed the Constitution, and who had both previously rendered eminent service to the country. No advantage was ever taken of this provision; all of our Presidents have been born in the United States. And since all who could have been thus elected are now dead, this exception is no longer of any value.

A child born of American citizens while they were temporarily living abroad and who had retained their American citizenship, would be a natural-born citizen, and, so far as his birth is concerned, would be eligible to the Presidency. No such case has yet arisen, but after the battle of Gettysburg, in 1863, General Meade, who had been born of American parents in Spain, was widely discussed as a candidate for the Presidency; and again, after his election as Mayor of New York City in 1903, George B. McClellan was suggested for this office, though he had been born while his parents were staying temporarily in Dresden, Germany. In both cases it was generally agreed that they were eligible to the Presidency.

**Qualification of Residence.** Even if born in the United States a man might have lived abroad so much of his life as to be unfitted to be President; so the Constitution requires that he must have lived at least fourteen years in the United States.

**Qualification of Age.** It will be remembered that a Representative must be twenty-five years old, and a Senator thirty years old. And the Constitution wisely prohibits the election of a President younger than thirty-five. It is very unlikely that a younger man would have the experience, wisdom, and good judgment necessary for a President of the United States.

Our Presidents have generally been much older than thirty-five. Before Roosevelt, Grant was our youngest President, having been elected at forty-six. But Roosevelt was President before he was forty-three.

SECTION I. CLAUSE 6. *In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed or a President shall be elected.*

**The Succession of the Vice-President.** If the President dies, resigns or is removed from office, the Vice-President takes his place and becomes President. No President has ever resigned, and none has ever been removed from office, which could be done only through impeachment. Five Presidents have died in office, three of them by assassination.

If the President is unable to discharge his duties, the Vice-President should perform them until the President recovers, or until he dies, resigns, or is removed. But the Constitution provides no way of deciding when the President is unable to perform his duties.

No Vice-President has ever assumed the duties of a President as long as the President was alive. President Garfield was shot on July 2d, but did not die until September 19th. During that time the only official act he performed was to sign one paper. Yet Vice-President Arthur made no attempt to perform the President's duties.

**Unimportance of the Vice-President.** Unless he should be called upon to take the place of the President, the Vice-President has no other duty than to preside over the Senate, and there, as has been said, he has no vote except in case of a tie. He does not appoint the committees. The Vice-President is less important than the Speaker of the House or a member of the Cabinet, or even than a Senator. It seems likely that the framers of the Constitution intended that the chief function of the Vice-President should be his right to succeed to the Presidency. But had the

office been made more important, more care would sometimes have been taken in filling it. The Vice-President might properly and wisely be invited by the President to meet with his Cabinet, both to secure his counsel and to make him familiar with the policy and plans of the President and his Cabinet, and thus better fit him to succeed to the Presidency, should such a contingency arise.

**When There is no Vice-President.** The Constitution does not provide for a successor to the President when there is no Vice-President, but it authorizes Congress to make a law providing for such succession. Congress has done this, and in case of the removal, death, resignation or inability of both President and Vice-President, the Secretary of State would act as President until the disability was removed or until a President was elected. If there were no Secretary of State, or if he were unable to serve, the Secretary of the Treasury would be acting President, and if necessary the duty would fall upon some other member of the Cabinet in the following order: Secretary of War, Attorney-general, Postmaster-general, Secretary of the Navy, Secretary of the Interior. There is no provision for the succession of the Secretary of Agriculture or the Secretary of Commerce and Labor, as these offices had not been made when the Presidential succession law was passed.[1]

The above is the order of rank of the President's Cabinet, and on any official occasion they would be received or would sit in that order. The first four of these were made by the first Congress, and their order was doubtless determined by their supposed relative importance. The order of the other departments is the order of their establishment by Congress.

The Presidential succession law requires that the Cabinet officer who acts as President must have the same qualifications of birth, age, etc., as a President, and his appointment to the Cabinet must have been

[1] For the full text of the Presidential succession law see Appendix (p. xix).

confirmed by the Senate. He acts for the remainder of the Presidential term, unless it is a case of disability from which the President or Vice-President recovers before his term ends.

It will be noticed that the member of the Cabinet would not become President, but would merely act as President, and he must at the same time retain his Cabinet office, or he would cease to act as President. In such a case he would probably leave most of his Cabinet work to his assistants in that Department, and if he were acting on account of the death, removal, or resignation of the President and Vice-President, he would doubtless occupy the White House and receive the salary of the President.

SECTION I. CLAUSE 7. *The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected. And he shall not receive within that period any other emolument from the United States, or any of them.*

**The President's Salary.** The President should be paid an ample salary, and in order to make him independent Congress should have no power to raise or lower his salary during his term of office. The President's salary was at first twenty-five thousand dollars per year, but since the beginning of President Grant's second term it has been fifty thousand dollars per year. He is forbidden to receive any extra compensation from the United States or from any State. But he is given the free use of the White House, which is furnished and partly maintained at government expense. The Vice-President's salary is eight thousand dollars per year.

The cost of repairing, refurnishing, heating, and lighting the White House and of maintaining its greenhouses is paid by the government, as well as the salaries of the President's secretary and other assistants. These extra expenses are less than one hundred thousand dollars per year. Every other important country in the world pays the head of its government much more than our President receives.

SECTION I. CLAUSE 8. *Before he enter on the execution of his office he shall take the following oath or affirmation:*

*"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States."*

**The Inauguration of the President.** The President is inaugurated on the fourth of March following his election. The Chief Justice of the Supreme Court administers the oath and the President makes an address, usually giving his views and policy as to national affairs. This ceremony takes place in front of the Capitol in Washington, and is always witnessed by a vast crowd of people, who have come from all parts of the country to see it.

The Vice-President is sworn into office in the Senate chamber on the same day. He takes the same oath, except that he promises faithfully to execute the office of Vice-President.

Any other judge or officer authorized to administer oaths would serve as well as the Chief Justice, in inaugurating a President. When Vice-Presidents have succeeded to the Presidency they have taken the President's oath privately before some nearby judge, as the circumstances have always made public inaugurations improper.

# CHAPTER XII.

## POWERS AND DUTIES OF THE PRESIDENT.

ARTICLE II. SECTION II. CLAUSE 1. *The President shall be Commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.*

**The President and the Army and Navy.** As the President is required to execute the laws, he must for this purpose be able to use the army and navy when necessary. And in war it is necessary that one person should control the military and naval forces; so it is natural and proper that the President should be Commander-in-chief. For this purpose it is not necessary that the President shall have been a soldier. He never actually commands an army or navy, but he selects the commanders and other officers, and in a general way directs the policy and campaigns in war. In army matters he is generally guided by the advice of the Secretary of War, and in naval matters by the advice of the Secretary of the Navy.

**The President and His Cabinet.** The executive business of the country is divided into nine departments—namely, State, Treasury, War, Justice, Post Office, Navy, Interior, Agricul-

ture, Commerce and Labor. The heads of these departments, who are appointed by the President, form his Cabinet. While he sometimes asks of them written opinions, as the Constitution suggests, he usually consults them orally. The President holds frequent meetings with his Cabinet at the White House. At these meetings the affairs of government are discussed. While the members of the Cabinet are very important and influential officers, and have great power, they must not act contrary to the President's wishes, and are really only his advisers and assistants.

**Reprieves and Pardons.** A reprieve is the postponement of punishment. A pardon is a relief from punishment. The President has power to reprieve or pardon persons who have broken the laws of the United States, and who have been convicted in the United States Courts or in army and navy courts-martial. But he has no power to pardon criminals who have broken State laws and have been convicted in State courts. These can only be pardoned by the Governor or other pardoning authority of the State.

Commutation is lessening a punishment. The President may commute sentences, and often does so.

The President is forbidden to change the sentence in case of impeachment, because officers who are impeached have in most cases been appointed by the President, and he might be prejudiced in their favor.

SECTION II. CLAUSE 2. *The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other*

*officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.*

**Treaties.** A treaty is an agreement between two nations. The United States has treaties with all foreign nations, and new treaties about giving up criminals, disputed boundary lines, etc., are often made. Treaties are made, under the general direction of the President, by the Secretary of State. Sometimes he deals directly with the agent of the foreign government, or he may act through our minister to the foreign country or through a special minister. The President does not consult the Senate in making a treaty, but as it is afterward subject to confirmation by the Senate, he usually consults the leading Senators about it, especially the members of the Senate Committee on Foreign Affairs, who must report for or against the ratification of the treaty. After a treaty is made it is considered in a secret session of the Senate, and goes into effect only when ratified by a two-thirds vote in that body.

No treaty would be valid which violated the Constitution. But the President and Senate have sometimes made treaties which overrode certain laws which Congress had made, as when the inhabitants of the Louisiana territory were made citizens by the treaty without complying with the naturalization laws. Yet when, in 1903, the reciprocity treaty was made with Cuba, by which the products and manufactures of that island were to be admitted to the United States at a twenty per cent. reduction in duty, the opposition of the Representatives to this change in the tariff laws without their consent compelled the President and Senate to provide that the treaty should not go into effect until the tariff on Cuban goods was thus changed by Congress. And it seems

now to be settled that the President and Senate will not make a treaty affecting the revenue, unless the House of Representatives agrees to the necessary changes in the revenue laws.

**Appointments to Office.** No duty of the President gives him so much trouble as filling the offices. He still appoints all the important officers of the government except the few otherwise provided for in the Constitution. As there are thousands of these offices, and they are in all parts of the country, the President would be able to fill wisely but few of them from his own knowledge alone. He is usually guided in his appointments by the recommendations of the heads of departments or by the Senators and Representatives of his own party in whose States and Congressional districts the offices are located.[1]

Presidential appointments are usually made for four years, and officers must be reappointed every four years. They are given commissions signed by the President. But the President has the power to remove at any time any appointive officer, except the judges of the United States Courts, these being appointed for life or during good behavior.

**Confirmation by the Senate.** "Advice and consent of the Senate" means that an officer appointed by the President cannot hold the office until his appointment is approved by a majority vote of the Senate. When considering and con-

[1] For instance, every Representative who belongs to the same party as the President now practically dictates the appointment of all the postmasters in his Congressional district. The Senators belonging to the President's party generally influence the appointment of the postmasters of the great cities, of the Customs and Internal Revenue appointments by the President in their States, as well as of the postmasters in districts whose Representatives belong to the other party. Where he has no Senators or Representatives of his own party the President is usually guided in his appointments by the advice of leading men of his party in the State.

firming appointments to office, the Senate meets in secret session, so that the Senators may not hesitate to discuss the appointments freely. But the proceedings of these executive sessions, as they are called, are always revealed by somebody, and so get into the newspapers. The Senate usually confirms the President's appointments even when a majority of the Senators are not of his party.

**Senatorial Courtesy.** It has now come to be almost an invariable custom of the Senate not to confirm an appointment by the President, unless the appointment is approved by one or both of the Senators from the State in which it is made, provided the Senator or Senators belong to the majority party in the Senate. This pernicious custom frequently compels the President to yield his independence and best judgment in appointments to a Senator who is influenced in the matter wholly by political or selfish considerations.

**Ambassadors, Ministers, and Consuls.** Ambassadors and foreign ministers are a nation's official representatives in other countries. We have an Ambassador or Minister in every foreign country of any importance, and every important foreign country has an Ambassador or Minister in Washington. An Ambassador has the same duties as a Minister, but his title gives him a higher rank. The United States sends an Ambassador to every country which sends an Ambassador to Washington, and sends Ministers to those which send Ministers to us.[1] Consuls are commercial or business agents of the country. The United States has Consuls in all the most important cities of the world. They look after the interests of American merchants, sailors, and travellers, and report whatever they find of value to American trade or manufactures. Foreign nations have Consuls in our great cities to serve their interests in the same way.

**The Appointment of Inferior Officers.** Congress may give the President alone, or the judges of the courts or the Cabinet officers the right to appoint inferior officers, without the con-

[1] At present we have Ambassadors in England, France, Germany, Russia, Austria, Italy, Mexico, Brazil, and Japan.

sent of the Senate. The President appoints his own secretary and clerks, the judges of the United States courts appoint all but the most important officers of their Courts, and the Cabinet officers appoint almost all their assistants and clerks, but these last are usually required to pass civil service examinations before their appointment.

**The Spoils System.** For forty years it was the policy of our Presidents not to allow efficient and honest officials to be removed from non-political offices. So postmasters, revenue officers, clerks, etc., were not changed on account of their politics, when the opposite party elected a President. From the beginning of Washington's administration until the beginning of Jackson's but seventy-four such officials were removed. But during his first year in office Jackson removed two thousand such officers to make places for members of his own party, and thus applied to national affairs the pernicious claim that "To the victors belong the spoils." For many years this bad precedent was followed, and whenever the control of the government passed from one party to the other, all office-holders, great and small, were put out of office and their places filled by members of the victorious party, generally inexperienced and often inefficient, because they were chosen, not for their fitness, but as a reward for political services.

**Civil Service Reform.** The abuses of the spoils system continued without check for many years. But in 1883 a Civil Service Commission was established in Washington, which holds public competitive examinations twice a year in many places. Almost all the employés in the great department offices at Washington and in the Post Offices, custom houses and revenue offices in the country are now appointed only after passing these examinations. When a vacancy is to be filled, one of

the three applicants who passed the best examination for this place is appointed. And no employé thus appointed can be removed except for just cause and after a fair hearing. But none of those officers who are appointed by the President and confirmed by the Senate are obliged to take the civil service examinations. For example, postmasters do not have to take these examinations, but Post Office clerks and letter-carriers do. No one employed by the government can be required to contribute to or to work for any political party.

On June 30, 1904, 154,000 government positions were in the classified service, that is, could be filled only by those who had passed the civil service examinations; 137,000 positions were still unclassified, and could be filled by the President or other appointing power without examination, but the majority of these were the fourth-class postmasters. The President has the power to transfer offices from the unclassified to the classified service, and has repeatedly done this. So that the number of government positions which can be got without passing the civil service examinations is constantly growing less. Full information about the civil service examinations and rules can be had by writing to the Civil Service Commission, Washington, D. C.

SECTION II. CLAUSE 3. *The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.*

**When the Senate is Not in Session.** When the Senate is in session an officer appointed by the President does not receive his commission nor enter upon his office until his appointment has been confirmed by the Senate. But there must be some way of temporarily filling positions that have become vacant while the Senate is not in session. When such vacancy occurs the President fills the place, and, in order to give the Senate ample time to act, gives a commission good until the end of the next session of the Senate.

If such an appointee is rejected by the Senate he may serve until the end of the session, but is likely to resign and let the President and Senate appoint someone else before the session ends. In 1886 President Cleveland removed Frederick Douglass from the position of Recorder of Deeds in the District of Columbia and appointed James C. Matthews in his place. The Senate rejected the nomination. After the Senate had adjourned the President reappointed Mr. Matthews, who served until the Senate met, when the President again sent his name to the Senate. The Senate again voted against his confirmation, when the President appointed another to the office.

SECTION III. *The President shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may on extraordinary occasions convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive Ambassadors and other public Ministers. He shall take care that the laws be faithfully executed and shall commission all the officers of the United States.*

**The President's Message.** The President may at any time send to Congress information and recommendations on some one subject of importance to the country, and he often does this. But at the opening of each regular session of Congress he sends to each House a long and carefully prepared message. This gives an account of the important official actions of the government while Congress was not in session, and of their causes and results. It also gives full information of the condition and needs of the country with his recommendations as to what Congress should do.

**Extra Sessions and Adjournment of Congress.** The President may, when he thinks it necessary, call a special session of Congress or of either House alone. Both Houses have

thus been called together in special session but eleven times in our history. The House of Representatives has never been called in special session alone, for without the Senate it cannot complete any public business. But the Senate alone has repeatedly been called in extra session, to ratify treaties or to confirm appointments. A special session of the Senate is always called immediately after the inauguration of a President to confirm his appointments.

If the two Houses of Congress cannot agree upon a date of adjournment the President may adjourn them. But no President has ever done this.

In England parliament is dismissed for a recess or dissolved for a new election only by the king's command.

**Reception of Ambassadors and Ministers.** An Ambassador or Minister from a foreign country is always received by the President when he arrives in Washington. This ceremony accepts him as the representative of his country. And if the President receives the Ambassador or Minister of a new government, he recognizes that government. This power of the President with reference to foreign Ambassadors and Ministers is very important, and if unwisely exercised might cause the country great trouble, and even war.

In 1903, President Roosevelt, by receiving the Minister of Panama, recognized on behalf of the United States that Panama was an independent nation and no longer belonged to Colombia, from which it had recently revolted.

SECTION IV. *The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.*

**Impeachment and its Punishment.** As has been shown (p. 40) impeachment is bringing charges against a United

States official before the Senate by the House of Representatives. This clause provides that only the President, Vice-President and other civil officers may be impeached, and specifies that they shall be impeached only for treason, bribery. or other high crimes and misdemeanors. "High crimes and misdemeanors" is a legal phrase meaning all the crimes, grave and petty, which were included in the old English, or common, law. We have previously learned (p. 40) that when impeached officers are convicted the Senate can only punish them by removing them from office and by disqualifying them from holding office again under the United States. Here we learn that in such a case the Senate must remove the convicted officials, but may or may not disqualify them from holding office again.

# CHAPTER XIII.

## THE PRESIDENT'S CABINET.

**The President's Chief Advisers and Assistants.** The Cabinet is a group of nine men, each of whom is the head of one of the nine great departments of the government. The Constitution does not provide for a cabinet nor even mention it, but the makers of the Constitution expected Congress to organize the government into such departments, for

ARTICLE II., SECTION II., CLAUSE 1, says, the President *may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of the respective offices.*

The First Congress established, in 1789, the State Department, War Department, Treasury Department, and the Attorney-general's office. And since then the Post Office Department, the Navy Department, the Interior Department, the Department of Agriculture, and the Department of Commerce and Labor have been added.

**Members of the Cabinet are the President's Chief Advisers and Assistants.** The members of the Cabinet are appointed by the President, and the Senate now never rejects these appointments, for it is felt that the President should have the right to choose his own advisers. They are the chief advisers of the President and meet him for consultation in Cabinet meetings at the White House on Tuesdays and Fridays at eleven o'clock. Each of them manages his own department, subject to the laws of Congress and the direc-

tions of the President. While the President is largely influenced by the advice of his Cabinet he is not bound by it, and need not follow it. The President himself usually decides all the most important matters that belong to the executive department. Each member of the Cabinet has deputies and other assistants, as well as hundreds, and, some of them, thousands, of clerks who work in great government buildings at Washington. Almost all of these are appointed after they have passed the civil service examinations. The salary of each member of the Cabinet is eight thousand dollars.

**The State Department.** The Secretary of State is the leading, and usually the most important, member of the Cabinet, and sits at the President's right hand at the Cabinet meetings. He has charge of all our relations with foreign governments, makes treaties, and gives instructions to our Ambassadors, Foreign Ministers, and Consuls. He keeps the original copies of all laws and treaties, and makes them public. He has charge of the great seal of the United States, and with it seals all proclamations and many other papers signed by the President.

There are three Assistant Secretaries of State, who assist the Secretary in his work.

**The Treasury Department.** The Secretary of the Treasury manages the finances of the United States. He prepares for the approval of the President and Congress plans for raising revenue, sees that the taxes are collected and spent according to law. He also has charge of the building of Post Offices, custom houses, and other government buildings; of the coining or printing of money, and of the life-saving and public health departments of the government.

**Assistant Secretaries and Other Treasury Officials.** There are three Assistant Secretaries of the Treasury, who have direct oversight of vari-

ous parts of the work of this department. Other important officers of this department are: the Treasurer of the United States, who receives, has charge of, and pays out all public money; the Register of the Treasury, who signs and issues all the government bonds and whose signature, as well as that of the Treasurer, is printed on all paper money; the Comptroller of the Currency, who has supervision of the National Banks all over the country; and the Commissioner of Internal Revenue, who has charge of the collection of all internal revenue taxes. The Treasury Department audits the accounts of all the other departments of the government.

**The War Department.** The Secretary of War has charge of the army and of the forts and land defences of the United States. The War Department has charge of the improvements to rivers and harbors for the benefit of navigation, upon which large sums of money are spent every year. The government of the Philippines is also under the supervision of the War Department. The Secretary of War need not be, and generally is not, a soldier.

**Other Officials of the War Department.** There is but one Assistant Secretary of War, but each branch of the service is in charge of an army officer of high rank. The General Staff is a committee of the ablest officers of the army, who recommend needed changes and improvements in the army and the defences of the country. The Lieutenant-general is now the Chief of Staff.

**The Department of Justice.** The head of this department is the Attorney-general. He is the chief lawyer of the government. He has charge of all the government's lawsuits, and advises the President and his fellow-members of the Cabinet on points of law that arise in their departments.

**Assistants in the Department of Justice.** The chief assistant to the Attorney-general is the Solicitor-general, and there are several Assistant Attorneys-general. These are all skilful lawyers who, under the direction of the Attorney-general, conduct the government's lawsuits that may come up in the United States or State Courts.

**The Post Office Department.** The Postmaster-general directs and manages the Post Office Department. He appoints all the officers and employés of the department except the Assistant Postmasters-general, and all postmasters whose salaries are less than one thousand dollars per year. About half of the three hundred thousand employés in the civil service of the United States are in the Post Office Department. The Post Office Department costs about $150,000,000 per year, its receipts being usually a few millions less than its cost.

**The Assistant Postmasters-general.** There are four Assistant Postmasters-general. The First Assistant directs the business of the Post Offices, furnishes them with supplies, and determines the salaries of the postmasters. He also manages the dead-letter department and the money-order business. The Second Assistant Postmaster-general has charge of everything connected with the transportation of the mails, both in the United States and to foreign countries. About one-half of the cost of maintaining the postal service is paid for carrying the mails. The Third Assistant Postmaster-general has charge of the collection and paying out of money, supplying stamps and postal cards, and of registered mail matter. The Fourth Assistant Postmaster-general has charge of the appointment of postmasters and other postal employés and of the free delivery of mail in town and country.

**The Navy Department.** The Secretary of the Navy has charge of the construction, equipment, and management of the Navy. He is not necessarily a naval officer, and rarely has been one.

**Assistant Secretary of the Navy.** There is one Assistant Secretary in this department, who assists the Secretary generally in his work. The different departments of the Navy are in charge of bureaus, or committees, of competent naval officers, but there is no General Staff, as in the army, to plan the policy of the navy. The Navy Department has at Washington a large and well-equipped Naval Observatory for astronomical observations.

**The Department of the Interior.** This department formerly seemed to have charge of the general welfare of the country in everything not provided for through the departments heretofore described. The two subsequently created departments have relieved it of many duties. But this department still has charge of patents, pensions for soldiers and sailors, public lands, education, Indian affairs, land reservations, and various other things. Next to the Post Office Department this department has the greatest number of clerks and other employés.

**Assistants in the Interior Department.** There are two Assistant Secretaries of the Interior. The other principal officials are: the Commissioner of Patents, who has charge of the Patent Office and the granting of patents; the Commissioner of Pensions, who has charge of the granting of pensions amounting to about $150,000,000 per year, mostly to the old soldiers of the Civil War; the Commissioner of Education, who collects statistics and diffuses information concerning education; the Commissioner of the General Land Office, who has charge of the management and disposal of the public lands; the Commissioner of Indian Affairs, who has charge of the lands, moneys, schools, and general welfare of the Indian tribes; and the Director of the Geological Survey, who has charge of the scientific surveys of the United States and of the government's irrigation operations.

**The Department of Agriculture.** The Secretary of Agriculture has charge of the government's assistance to agriculture. He directs agricultural experiment stations, and investigates and stamps out diseases of domestic animals and of plants, and he gathers and sends out information about the growing crops. The Weather Bureau belongs to this department. The Department of Agriculture has proved to be a very valuable and important one. It has introduced new and useful varieties of plants and has greatly helped the farming interests.

**Assistants in the Agricultural Department.** There is one Assistant Secretary of Agriculture, who aids the Secretary. A Chief of the Weather Bureau directs the forecasts and reports of the weather for the newspapers, weather maps and signals. Scientific experts have charge of the various bureaus which carry on the work of this department.

**The Department of Commerce and Labor.** This is the last department to be added to the Cabinet, having been established in 1903. The Secretary of Commerce and Labor is expected to promote the interests of American commerce, manufactures, mining, fisheries, and labor. The work of the census and of the coast survey as well as the regulation of immigration belong to this department.

**Assistants in the Department of Commerce and Labor.** There is one Assistant Secretary in this Department. The various important duties of this department are divided among the different Bureaus, each with an expert at its head.

**The Bureau of Corporations.** The most important Bureau in the Department of Commerce and Labor is the Bureau of Corporations. This Bureau investigates corporations engaged in interstate or foreign commerce; except the railroads and steamships thus engaged, which are under the supervision of the Interstate Commerce Commission. This Bureau of Corporations has attracted much attention by its efforts to deal with the great problem of trusts.

### THE INTERSTATE COMMERCE COMMISSION.

ARTICLE I., SECTION VIII., CLAUSE 3, of the Constitution provides that *Congress shall have power to regulate commerce among the several States.* Congress made no use of this power for a hundred years after the Constitution was made. But in 1887 Congress provided for an Interstate Commerce Commission of five men, appointed by the President for terms of six years, at salaries of $7500 per year. The Commission decides questions arising under the Interstate Commerce laws, investigates violations of these laws, and brings cases of such

violation before the United States Courts. The principal railroad regulations so far made by Congress are: (1) that passenger and freight rates shall not be excessive and shall be the same for all; (2) that the charge for a part of a distance shall never be greater than for the whole distance; (3) that the railroads shall not pool their earnings, that is, shall not bargain to divide up their earnings or their business; (4) that locomotives and cars should all have air brakes and automatic couplers. These requirements and the jurisdiction of the Interstate Commerce Commissioners apply only to railroads and ships going from one State to another or to foreign countries, for the Constitution gives Congress no authority over commerce within a State.

### THE CIVIL SERVICE COMMISSION.

The President appoints three Civil Service Commissioners, at salaries of $3500 each, to aid him in carrying out the Civil Service laws of the United States. Only two of these may belong to the same political party. They manage the civil service examinations, supervise the appointments to vacancies from the candidates passing the best examinations, and investigate and report to the President any violation of the Civil Service law.

## CHAPTER XIV.

### THE JUDICIAL DEPARTMENT.

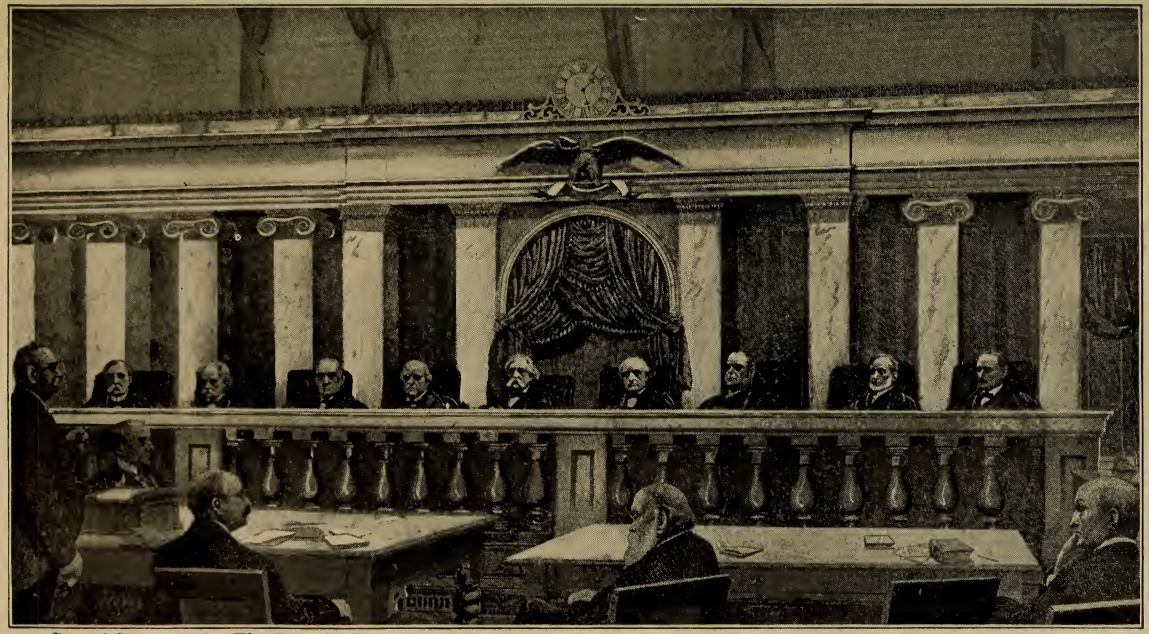
**The Third Department of Government.** The Judicial Department, the third great department of government, interprets and applies the laws. No part of the Constitution was more wisely planned and none has worked better in practice than that which organized and guides its courts, and they have been a most important factor in the success of our government It is important to remember that the courts here described are not the courts which meet in the county Court Houses; those are the State courts.

ARTICLE III. SECTION I. *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office.*

**The Different United States Courts.** In addition to the Supreme Court, Congress has, by authority of this clause, established three kinds of inferior courts for the whole country as well as several special or local courts.

The four kinds of United States Courts which have to do with the whole country are:

The District Courts,
The Circuit Courts,
The Circuit Court of Appeals,
The Supreme Court.



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UNITED STATES SUPREME COURT ROOM

**The District Courts.** At its first session Congress established one inferior court for each State, which was called a District Court. And for each new State admitted to the Union a District Court was established. As their population and business increased, it became necessary to divide some of the larger States into two or more districts, so that now most of the larger States are divided into two or three districts. Each district has its judge.[1]

The District Court has jurisdiction in all crimes against the United States except those punishable by death. It has jurisdiction of all suits brought by or against the United States, suits respecting ships and their cargoes and commerce by water, and bankruptcy cases. District Courts have juries and are conducted much like the State courts.

**Other Officers of the District Court.** A district attorney for each district is appointed by the President. He is necessarily a lawyer. He prosecutes the crimes against the United States which occur in his district, and represents the government in all suits brought by or against it. A marshal is also appointed by the President for each district. He arrests violators of the United States laws in his district, has charge of prisoners while they are being tried, and executes the orders of the judge. He corresponds to the sheriff of a county. The clerk of the court keeps a record of its proceedings. He is appointed by the district judge.

**United States Commissioners.** Each district judge appoints United States Commissioners in various parts of his district, who are committing magistrates for the United States Court. Persons arrested for crimes against the United States are first brought before them. If the evidence against the prisoners warrants holding them for court, the commissioner sends them to jail, or admits them to bail, until they can be tried.

**The Circuit Courts.** Besides the District Courts Congress has established another kind of inferior courts, called Circuit

[1] New York has four districts. In a few cases one judge has two districts, and a few districts have two judges each.

Courts. The District Courts are divided into nine groups, called circuits, each circuit being made up of four or more of the District Courts. In each circuit there are from two to four circuit judges who travel through the circuit, and, together with the district judges, hold Circuit Courts in the various districts.

All crimes against the United States which are punishable by death are tried in the Circuit Courts, and the Circuit Courts may also try the lesser crimes against the United States, but these are generally tried in the District Courts. All patent and copyright cases are also tried in the Circuit Courts. But the chief business of the Circuit Courts is hearing the private civil suits which can be tried in the United States Courts, such as those between citizens of different States. Such suits must involve two thousand dollars or more to be heard in the United States Courts. The Circuit Courts have juries and hear witnesses like our county courts.

The district attorney and marshal of the District Court also act as district attorney and marshal of the Circuit Court held in their district. But the Circuit Court appoints a clerk in the district to keep its records.

**The Circuit Court of Appeals.** Formerly so many cases were appealed from the District and Circuit Courts to the Supreme Court that it was always several years behind with its work. To relieve the Supreme Court, Congress in 1891 established the Circuit Court of Appeals. In each circuit two or more of the circuit and district judges, sitting together, hold such a court. This court hears and finally decides most of the cases which are appealed from the District and Circuit Courts.

Congress has provided that a few kinds of civil cases—for example, cases that involve the meaning of the Constitution or the constitution-

ality of a law, and criminal cases which involve the penalty of death may be appealed directly from the District or Circuit Courts to the Supreme Court. But in all other criminal cases and in most civil cases appeals from the lower courts must be taken to the Circuit Court of Appeals. Some of these civil cases may again be appealed from the Circuit Court of Appeals to the Supreme Court, but the others and all the criminal cases are finally decided by the Circuit Court of Appeals, unless the Supreme Court should give special permission to bring them before it.

**The Supreme Court.** The Supreme Court of the United States is composed of nine justices. They hold court only in Washington, and their court-room is the old Senate chamber of the Capitol. Their work is almost entirely confined to deciding points of law in connection with important civil cases which are appealed to them from the lower courts. They have no juries, and, as a rule, hear no witnesses. The lawyers on either side argue the case, which is then decided by a majority of the justices.

A decision of the Supreme Court is final and must be obeyed. Should it decide that a law passed by Congress is unconstitutional, that law is null and void and cannot be enforced, no matter how anxious the President, Congress, or the people may be to have it enforced. No other court in the world has such great power, and this power has rarely been used unwisely.

Each justice of the Supreme Court is assigned to one of the circuits, and at least once in two years he must attend court in his circuit. On these visits he may, and generally does, act as a judge in either of the courts in the Circuit. The number of circuits was made nine, to be equal to the number of Supreme Court justices.

**The Special United States Courts.** In addition to the general United States Courts, Congress has established courts for special purposes as follows:

The Court of Claims consists of five judges, who hold court in Wash-

ington and examine claims against the United States. Claims which it finds to be just are reported to Congress, which appropriates money to pay them.

The Circuit and District Courts also now have concurrent jurisdiction with the Court of Claims in claims against the United States; the District Court having jurisdiction of claims which do not exceed $1000, and the Circuit Court of those above that amount and not exceeding $10,000. Cases of this kind are heard by the court without a jury.

Courts of the District of Columbia try the cases which arise in the District, and Territorial courts try cases in the Territories.

**United States Judges Appointed for Life.** All judges of the United States Courts are appointed by the President and confirmed by the Senate. The Constitution says they shall hold their offices during good behavior, which is practically appointment for life. They can only be removed through impeachment, and are the only officers appointed by the President whom he cannot remove. But a law has been passed which allows them to resign at the age of seventy and receive full pay for the rest of their lives, provided they have held their judgeships for ten years.

The judges of the District of Columbia and of the Territories are not considered United States judges, and are not appointed for life, but for four-year terms, and may be removed by the President.

It is generally held by students of government that abler and more unbiased judges are secured by executive appointment than by election. But almost all of the State judges are now elected by the people and for certain terms of years instead of for life.

**Salaries of the Judges.** Judges must be paid, and their pay cannot be decreased while in office. But their pay may be increased, and this has been done repeatedly. As the judges are appointed for life they are liable to serve many years, during which time the expenses of living and salaries generally might so increase as to make their orginal salaries

entirely inadequate. Several United States judges have served more than thirty years.

The Chief Justice of the Supreme Court gets $13,000 per year, the other Supreme Court justices $12,500 each. The circuit judges get $7000, and the district judges $6000.

Their life appointments and the permanence of their salaries are very important factors in securing able and independent judges. While their pay is not large for the kind of men who should be and are appointed, yet the permanence of these positions and the honor attached to them make even the ablest lawyers generally willing to accept them.

SECTION II. CLAUSE 1. *The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.*

**What Cases Belong to the United States Courts.** This clause tells what kind of cases may be tried in the United States Courts. All the kinds of cases not mentioned here are tried in the State courts.

**Cases Arising under the Constitution and Laws of the United States and under Treaties.** It is evident that the United States should have the right to try cases under the Constitution or the laws of the United States, just as the courts of any State should try the cases coming under the constitution or laws of their State.

Necessarily all cases concerning treaties belong to the United States Courts, for all treaties are made by the United States, the States having no right to make treaties with foreign nations or even with each other.

In some of our States there are two kinds of courts, courts of law and courts of equity. Courts of equity may relieve men of hard bargains, correct mistakes in contracts, and otherwise secure justice in cases for which there happens to be no law. But every United States Court is a court both of law and equity, and deals with both kinds of cases. This is also true of the State courts in most of the States.

**Cases Affecting Ambassadors, etc.** Ambassadors and ministers are the representatives of foreign nations, and consuls are business agents of foreign countries. Foreign nations have no dealings with our individual States; hence any case affecting their representatives here should not be taken to State courts, but to the United States Courts.

**Cases of Admiralty and Maritime Jurisdiction.** Admiralty and maritime cases are cases concerning shipping and commerce by water. As the Constitution gives Congress the control of foreign commerce as well as of commerce among the States, these cases properly belong to the United States Courts and not to the State courts. All crimes committed on ships or steamboats and all civil suits concerning ships and their cargoes are tried in the United States Courts.

**Controversies to which the United States Shall be a Party.** Certainly if the United States is one party to a suit, the suit must be tried in a United States Court and not in any State court.

Nations cannot be sued except by their own consent. Congress has established a Court of Claims at Washington to decide as to the justice of claims against the United States, but the court cannot enforce its decisions, and unless Congress sees fit to pay the claims thus found

against it they are never paid. There is no way to compel a nation to pay its debts or to keep its promises, except by war or the threat of war by a stronger nation.

**Controversies between Two or More States.** In a controversy between two States, it is evident that neither State would be willing to let the controversy be decided by the courts of the other State. Naturally the courts of the United States should decide such controversies.

**Controversies between a State and the Citizens of Another State.** Here, too, the courts of either State might be biased, and the United States Courts are the proper courts for all such cases.

When the Constitution was adopted the States evidently expected that this clause would only allow a State to bring suit against an individual. But soon after the adoption of the Constitution, a citizen of North Carolina brought suit against the State of Georgia in the Supreme Court of the United States, and the Supreme Court decided that this clause gave him the right to do so. It was generally felt that while the States might be sued by each other, they ought to be enough like independent nations not to be sued by individuals without their own consent; and the Constitution was amended so as to prohibit such suits in the future. Now, if anyone has a claim against a State he must bring his suit in the courts of that State, and if the State court decides in his favor he gets his money, provided the State Legislature votes to pay it. But a State would rarely refuse to pay a claim which its own courts had decided to be just.

**Controversies between Citizens of Different States.** Here, again, the State court might be biased, and a person bringing such a suit should have the right to bring it in the United States Court, which is independent of both States.

**Controversies between Citizens of the Same State Claiming Lands under Grants of Different States.** About the time the Constitution was made there was much controversy among the States about their boundaries and the ownership of the western lands. And it frequently happened that two citizens

of a State claimed the same piece of land, one having bought it, perhaps, from his own State, and the other from some other State. The United States Courts would be more likely to decide such cases fairly than the courts of either State.

**Controversies Between a State, or the Citizens thereof, and Foreign States, Citizens, or Subjects.** For the same reason these suits belong to the United States Courts rather than the State courts.

The Eleventh Amendment to the Constitution forbids a foreign citizen to bring suit in the United States Court against one of the States, but a foreign nation can do this. And neither a State nor a citizen of the United States can bring suit against a foreign nation, unless that nation has made provision for such suits in its own courts, and its decisions can only be enforced by that nation's consent.

**Concurrent Authority of National and State Courts.** While all of the above kinds of cases may be brought before the United States Courts, some of them may be tried in the State courts, if the party bringing the suit prefers it. When a citizen of one State has a claim against a citizen of another, he frequently brings the suit in a court of the State where the person against whom the suit is brought lives, and if the amount of the claim is less than two thousand dollars the suit must be brought in the State court. Suits in the State courts which might have been taken to the United States Courts, are often taken to them for final decision.

SECTION II. CLAUSE 2. *In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.*

**Original and Appellate Jurisdiction.** Jurisdiction is the right to hear and decide a case. Original jurisdiction is first jurisdiction. The court which has by law original jurisdiction in a case first hears the case. But it often happens that one

party or the other is dissatisfied with the result of the first trial, and appeals to a higher court to grant him a new trial, or to correct errors of the first court. Appellate jurisdiction is the right of court to hear and decide upon a case which has been appealed to it from another court.

**Original Jurisdiction of the Supreme Court.** No cases can begin in the Supreme Court except those affecting ambassadors, public ministers, and consuls, and suits brought by or against a State. Ambassadors, ministers, and consuls represent the nations which send them, and it seems proper that their cases be heard in our highest court. But such cases are very rare. States, too, are so important that their suits should be heard only in the highest and ablest court. Such State cases are unusual.

**Appellate Jurisdiction of the Supreme Court.** With these rare exceptions, the Supreme Court hears only cases appealed to it from the lower courts. And, as has already been shown, the Circuit Court of Appeals prevents the less important civil cases and all criminal cases except those punishable by death from being heard by the Supreme Court even on appeal, unless the Supreme Court itself wishes to consider them. Its time is chiefly taken up with hearing argument and deciding important civil cases appealed to it from the lower courts.

SECTION II. CLAUSE 3. *The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.*

**Jury.** A jury is made up of twelve men, impartially chosen to hear the evidence for and against the person accused of

crime. He can be convicted only by the unanimous consent of the twelve jurymen.

Suitable persons to serve on the juries of a United States Court are selected from all parts of the district by the clerk of the court and a jury commissioner appointed by the judge. From these a sufficient number is chosen by lot and summoned to attend the sessions of the court. From them the clerk selects by lot twelve for each case.

**Where the Trial is Held.** A person charged with crime must be tried in the District or Circuit Court of the State where the crime was committed. And if there are two or more District Courts in the State, he must be tried in the court of the district where the crime was committed. Without this provision men might be taken far away from neighbors and friends, and even among their enemies, to be tried; and both they and their witnesses would be put to great inconvenience and expense.

When the crime was not committed in any of the States, Congress decides where it shall be tried. There are courts in the Territories and foreign possessions to try the crimes committed there. Crimes committed at sea are tried in the District Court having jurisdiction over the port which the ship enters.

**Only United States Courts Referred To.** This clause refers only to United States Courts, and does not refer to the State courts. The Constitution of the United States does not require that in the State courts all crimes shall be tried by juries, or that they shall be tried in the judicial districts where they were committed. The constitution of each State settles this for itself. But in every State the rights of persons charged with crimes are safeguarded in practically the same way.

Section III. Clause 1. *Treason against the United States shall consist only in levying war against them, or in*

*adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.*

**Treason in the United States.** Treason is considered the worst of all crimes, because it aims to destroy the government itself. But it was once common to call various crimes treason, so as to secure the most severe punishment for them, and sometimes really to get rid of brave and upright men who were opposing the tyranny of a king or his minister. The makers of the Constitution defined treason in the Constitution itself, so that Congress could not in some time of public excitement change it. To be guilty of treason a citizen must actually take part in a war against the United States, or must give aid and comfort to those who are making war against them. Giving or selling provisions or war materials to the enemy would be treason.

**Conviction of Treason.** The makers of the Constitution were so afraid that men would be unjustly convicted of treason that no one can be convicted of it unless two witnesses testify in court to the same open or public act of treason, or unless he admits his guilt in a public session of court. This prevents his conviction through private confession, which might be brought about by threats or even by torture.

SECTION III. CLAUSE 2. *The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.*

**The Punishment for Treason.** Congress has power to fix the punishment of treason, but if it should declare a traitor attainted and his blood corrupted (which would forfeit all

his property to the government) this cannot continue after his death and thus prevent his widow and children from inheriting property which might afterward come to them from his relatives.

The laws passed by Congress fix death by hanging as the punishment for **treason,** but the judge has power to inflict a heavy fine and long imprisonment instead of death.

Congress has no right to pass a bill of attainder, that is, by its own vote to attaint any man, but it has the right to pass a law authorizing a judge to inflict a sentence of attainder, after a man has been tried and convicted in court. But Congress has never passed a law authorizing such punishment.

According to the old English law, which the courts of Great Britain still had the right to enforce when the Constitution of the United States was made, a traitor was hanged, but cut down before he was dead, his bowels were taken out while he was still alive and were burnt before his eyes. His head was then cut off and his body divided into quarters. All his property was confiscated, and, as his blood was attainted, his widow and children could never inherit property which ought afterward to come to them through their relationship to him.

**The Common Law.** A large part of the laws in the United States were never passed either by Congress or by the State Legislatures, but are the common law. The common law is a large body of laws, both criminal and civil, which was established by the decision of English judges hundreds of years ago. In the early history of England, cases frequently came into the courts for which no laws had been made; so the judges were obliged to decide them according to the principles of justice and the customs of the country. When these decisions were evidently just, other judges would follow them in deciding similar cases, and there grew up in this way a great body of laws which became the foundation of English law. As these laws were universally in force in the American

colonies before the Revolutionary War, and the courts and the people were familiar with them, they were naturally retained, and now form the basis[1] of our national laws, and of the State laws everywhere except in Louisiana. In many points, however, laws of Congress and of the State Legislatures have suspended the common law. Louisiana was bought from France, and the Code Napoleon, or general law of France, in force in Louisiana when it was bought, is still the basis of the laws of that State, as the English common law is elsewhere.

There are however, no common-law crimes against the United States. Crimes prosecuted in the United States Courts are only those provided for by some act of Congress.

[1] Blackstone's Commentaries, which is usually the first text-book read by a law student, is a treatise on the common law, written by Sir William Blackstone, a celebrated English judge, who died in 1780.

## CHAPTER XV.

### THE STATES UNDER THE CONSTITUTION.

ARTICLE IV. SECTION I. *Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.*

**Public Acts, Records, and Judicial Proceedings.** Public acts of a State are laws made by its Legislature and Governor.

Records of a State are the records of the official acts of its Governor and other officers, as well as the deeds, wills, and other documents recorded in the court-houses in the State.

Judicial proceedings of a State are the acts of the State courts.

Such an act, record, or judicial proceeding, where legally done in one State, cannot afterward be undone in any other State.

If a divorce is legally granted in a State to one of its citizens, a judge in another State cannot set the divorce aside for the reason that his State has no such divorce law. Or if the deed to a farm is properly recorded in the State in which the farm lies, a court in any other State must accept the validity of the record.

**Proving such Acts, Records, and Proceedings.** But such acts, records, and judicial proceedings must be proved before full faith and credit are given them in other States. Congress has provided that the laws of a State may be certified by the State's seal, and acts of a court may be proved by the seal of the court and by the signature of the judge and the clerk of the court.

SECTION II. CLAUSE 1. *The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.*

**Discrimination against Citizens of Other States.** No State is allowed to favor its own citizens over the citizens of other States. If it did this, the other States would retaliate, and dangerous contentions would result. If a citizen of one State goes to another State he is entitled to the same privileges as the citizen of that State. And he is also obliged to obey the laws of the State where he happens to be, whether they are the same as those of his own State or not.

The ordinary laws of the different States are so nearly alike that this rarely makes any difference within the United States. But the laws in foreign countries are sometimes very different from ours, and Americans travelling there are liable to get into trouble if they forget that a person is always expected to know and obey the laws of the country where he is.

SECTION II. CLAUSE 2. *A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.*

**The Governor's Requisition.** A State's officers cannot arrest anyone outside of their State. If a criminal escapes to another State, the officers of the county where the crime was committed lay the facts before the Governor of their State. He makes a demand, or requisition as it is called, upon the Governor of the State to which the criminal has fled, to send him back for trial, which is done. Such a fugitive may be arrested in the State to which he fled and be detained there until the Governor's requisition comes, but he cannot be compelled to return until the requisition comes and is accepted by the Governor of the State where he is under arrest.

**Extradition.** When a criminal escapes to a foreign country the process of securing his return is called extradition. The United States has treaties with foreign countries in which we agree to give up their criminals who have fled to this country and they agree to give up ours. Such criminals are arrested and held until authority comes to give them up. The extradition of these criminals is secured through the Secretary of State, at Washington, since no one of the States can have any dealings with a foreign country.

SECTION II. CLAUSE 3. *No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*

**Runaway Slaves.** This clause was a part of the third compromise of the Constitution. *A person held to service or labor* could be either an apprentice or a slave, but here a slave was especially meant. Its purpose was to secure the return to their owners of slaves who might escape to other States. The abolition of slavery and the abandonment of apprenticeships have made this clause now useless.

In order to carry out this provision of the Constitution more effectually Congress passed the Fugitive Slave Law in 1850. This law required any citizen to assist in catching and returning runaway slaves, if called upon to do so, and imposed severe penalties for aiding such runaways. It aroused great indignation in the North and was one of the causes which brought on the Civil War.

SECTION III. CLAUSE 1. *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or*

*parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.*

**Admitting New States.** The admission of new States is entirely in the hands of Congress. A Territory is not required to reach a certain population before it becomes a State. Although a considerable population and general intelligence are supposed to fit a Territory for Statehood, yet the probable politics of the additional Senators and Representatives that they would bring into Congress have in the past had most influence for or against the admission of new States.

Nevada was admittted in 1864 with a population of some sixty thousand, and Wyoming in 1890 with about the same population. But Oklahoma with a population of more than four hundred thousand was refused admission in 1903.

**The Division of States.** No State can be divided into two or more States without the consent of its Legislature and of Congress. And two States cannot be joined into one, nor a piece be taken from one State and added to another, without the consent of the Legislatures of both States as well as of Congress. State pride is everywhere so great as to make such changes rare.

The only important application of this clause has been the separation of West Virginia from Virginia during the Civil War. After Virginia seceded in 1861, the western counties of the State, which adhered to the North, formed a separate State, and elected a Legislature which claimed to be the Legislature of the whole State. When this Legislature voted for the division Congress admitted West Virginia as a new State. After the war closed the legislature of Virginia consented to the division.

Texas was admitted in 1845, with a provision that it might be divided into five States if its people should desire it, but there is no evidence that such a division is likely to be made.

The map of Pennsylvania shows a point of land projecting south from the State between Delaware and Maryland. This little triangle, which is three and a half miles long and covers about eight hundred acres, is

legally a part of Pennsylvania, but its inhabitants have always voted and paid taxes in Delaware. In 1893 a joint commission, appointed by Pennsylvania and Delaware to locate the boundary between the two States, decided to put this land into Delaware. But as the Legislatures of both States have not yet consented, it is still legally in Pennsylvania, though practically in Delaware.

SECTION III. CLAUSE 2. *The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.*

**The Government of the Territories.** Congress fixes the form of government in the Territories, but all the organized or regular Territories have governments something like the State governments. A Territory elects its own Legislature, which makes laws for the Territory, just as a State Legislature makes laws for its State. But a State Legislature makes laws under the authority of and subject to its own constitution, while a Territorial Legislature can only make such laws as are authorized by Congress. The Governor, judges, and other important officials of the Territory are appointed by the President. Each Territory elects a delegate to Congress, who has a seat in the House of Representatives and may introduce bills and speak there, but has no vote.

The organized Territories now governed in this way are Hawaii, Arizona, New Mexico, and Oklahoma.

**Unorganized Territories.** The Indian Territory and Alaska are not believed to be yet fit to become organized Territories. Congress makes all the laws for the government of these unorganized Territories, and the President appoints all their officers.

**Our Spanish Possessions.** Porto Rico and the Philippines have governments resembling those of the organized Territories. Their Governors and other important Territorial officers are appointed by the President. Each has a Legislature composed of two branches, the upper one being appointed by the President, the lower one elected by the people. Congress, of course, has power to annul any unsatisfactory laws that these Legislatures may make. The Philippines elect two commissioners and Porto Rico one, who represent their people at Washington, but do not have seats in Congress, as the Territorial delegates have.

The Sulu Islands are governed by military officers, and the island of Guam by naval officers, under the direction of the President.

Our Samoan Islands also have a military government.

**The Western Territory.** The provision that *nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State* refers to the conflicting claims to the unoccupied western lands which were not settled when the Constitution was made. Massachusetts, Connecticut, New York, Virginia, and South Carolina had ceded their western lands to the United States in response to the demand of the States which had no western lands, but North Carolina and Georgia had not yet done this. But they did so after the Constitution was adopted; so the western territory which the treaty with England gave to the United States became the property of all the States, instead of being divided among a part of them only.

**The Public Lands.** The public lands which were ceded to the United States by various States after the Revolutionary War and those since obtained by treaty or conquest have been at the disposal of Congress. Most of this land has been given to the new States and Territories for schools or other public uses, or to railroads to encourage their construction, or has been given or sold to settlers: but large tracts are still held for settlement, or included in the reservations for public parks or for the use of Indian tribes.

The ordinary price at which the government sells its wild land is $1.25 per acre, but not more than one hundred and sixty acres can be bought by one person. Under the Homestead law any citizen of the United States over twenty-one years of age, without paying anything for it, can get one hundred and sixty acres of the land that is open to settlement, by living on it and cultivating it for five years. But most of the government land that can now be bought or homesteaded is either barren or so dry as to be almost worthless without irrigation.

SECTION IV. *The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened), against domestic violence.*

**The State Governments.** The Constitution itself determines that the United States must be a republic, and this clause provides that the States must all be republics also. If a monarchy should ever be established in any State, the United States authorities are bound to destroy it and re-establish there a republican form of government.

**Protection from Invasion.** It is the business of the United States to defend any State from invasion or attack by a foreign enemy. A State is allowed, in case of invasion or imminent danger, to try to defend itself; but as no State can have an army or a navy in time of peace, it alone cannot be expected to defend itself if invaded.

**Protection against Insurrection.** Each State has the right to enforce its own laws, and usually does so. But occasionally an insurrection is so serious that the State authorities are unable to subdue it. In such a case the State Legislature may call upon the President for aid, or if the Legislature is not in session and cannot be got together promptly enough, the Governor may do it. The President then sends United States troops to put down the insurrection.

In 1894 there were serious railroad riots in Chicago; the city and State authorities did not succeed in suppressing them and Governor Altgeld would not call upon the President for aid. But President Cleveland sent the troops without being asked to do so either by the Legislature or the Governor, and they quelled the riots. Governor Altgeld claimed that the President had no right to interfere without a request from him or the Legislature. The President maintained that he had a right to send the troops because the mails were interfered with, because the orders of the United States Courts could not be enforced, and because interstate commerce was obstructed. The Supreme Court afterward decided that the President was right.

# CHAPTER XVI.

## AMENDING THE CONSTITUTION.

ARTICLE V. *The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State without its consent shall be deprived of its equal suffrage in the Senate.*

**Proposing an Amendment.** Two steps are necessary in amending the Constitution. The amendment must be first proposed and then ratified. An amendment may be proposed by a two-thirds vote of each House of Congress. This is the ordinary way, and the way that all the amendments so far have been proposed. But if two-thirds of either House are unwilling to propose some amendment which the people want, the Legislatures of two-thirds of the States can, by requesting it, compel Congress to call a national convention, and this convention may propose the amendment.

The Legislatures of three-fourths of the States have never yet united in a request for a convention to propose amendments to the Constitution. If such a convention should ever be called, Congress would provide how its members should be selected. There has been for several years a widespread desire to so amend the Constitution as to have the Senators elected by a popular vote. Two-thirds of the House of Representatives have several times voted to propose such an amendment, but the Senate has always refused to do so. The Legislatures of a number of the States have voted to request Congress to call a convention to propose it, but so far two-thirds of the State Legislatures have not joined in this request.

**Ratifying an Amendment.** After an amendment has been proposed it must be ratified. And this may be done in either of two ways. If in three-fourths of the States majorities in both branches of the Legislature vote to ratify an amendment, it is adopted and becomes a part of the Constitution. And this is the way in which all of the amendments have so far been ratified. But instead of sending a proposed amendment to the State Legislatures for ratification Congress may direct that a convention shall be called in each State, to consider the amendment, and if three-fourths of these State conventions vote to ratify it the amendment is adopted.

**Parts of the Constitution Once Unamendable.** The Constitution says that *no amendment which may be made prior to the year* 1808 *shall in any manner affect the first and fourth clauses in the ninth section of the first article.* The first clause in this section is the one which allowed the foreign slave trade to go on for twenty years. The fourth clause forbids Congress to lay any capitation or other direct tax except in proportion to population, and, in estimating the population for this purpose only three-fifths of the slaves were to be counted. These two clauses were a part of the third compromise of the Constitution, and this provision was put in to prevent the possibility of amending the Constitution before 1808 in order to stop the slave trade, or to change the manner of laying direct taxes.

It has already been shown that an income tax not apportioned among the States is unconstitutional, and Congress cannot now collect such a

tax. The Constitution could now be amended so as to allow direct taxes to be laid in proportion to wealth and not in proportion to population only, as is now the case. But before 1808 it would not have been possible to amend the Constitution for this purpose.

**All the States Must Have the Same Number of Senators.** But there is one provision of the Constitution in which there is no likelihood of change, for it says that *no State without its consent shall be deprived of its equal suffrage in the Senate.* As it is practically certain that no State will ever consent to have fewer Senators than the others, it is evident that the States will always be equally represented in the Senate. Two-thirds of Congress with three-fourths of the State Legislatures may change any other part of the Constitution, and the remaining States must submit; or they may give each State three or four or a dozen Senators, but must always give them the same number.

**The President's Approval of an Amendment Unnecessary.** It is not customary to send to the President for his approval or disapproval proposed amendments which have received a two-thirds vote in each House, and the Supreme Court has decided that it is not necessary to do so.

**A State Cannot Withdraw its Ratification.** If the Legislature of a State has once voted to ratify an amendment, it cannot afterward withdraw its ratification. So after an amendment has been proposed by Congress or perhaps by a national convention there is always a possibility of its adoption, for its friends by concentrating their efforts may win one State at a time, and have an indefinite time for the accomplishment of their purpose.

# CHAPTER XVII.

## THE SUPREMACY OF THE CONSTITUTION.

ARTICLE VI. CLAUSE 1. *All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.*

**The Public Debt to be Paid.** In carrying on the Revolutionary War the Continental Congress borrowed large sums of money, which had not been paid when the Constitution was made. This clause promised that the new government would pay these debts. Without such a promise all these creditors, both at home and abroad, might have opposed the adoption of the Constitution. These debts were afterward paid in full.

CLAUSE 2. *This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.*

**The Constitution and Laws of the United States Supreme.** It is necessary that the Constitution of the United States and the laws and treaties which the Constitution gives Congress and the President the right to make must be supreme. If any State has laws contrary to laws of the United States, such State laws are void, and even the judges of that State must so decide. It is the business of the courts to decide when State

laws must be set aside by United States laws, and either State Courts or United States Courts have this power, but all such cases may be appealed to the Supreme Court of the United States for final decision.

CLAUSE 3. *The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.*

**Both United States and State Officers Must Subscribe to the Constitution.** In order to make sure that the Constitution and laws of the United States shall always be supreme, not only the United States officers, but also the State legislators, Governors and judges, when they go into office, must swear that they will support the Constitution of the United States.

**No Religious Test for Offices.** When the Constitution was made, most nations allowed no one to hold an office who did not belong to the State Church. And in some countries this is still the case, while in others, particular sects, such as the Jews, have been or still are forbidden to hold office. But this clause in the Constitution has always secured religious freedom for all officeholders in the United States.

B. H. Roberts, who was elected to Congress from Utah in 1899, was refused admission by vote of the House of Representatives, not because he was a member of the Mormon Church, but because he was believed to be a polygamist. Reed Smoot, who was elected Senator by the Utah Legislature in 1903, was one of the leaders of the Mormon Church, but there was no evidence that he was a polygamist. So, although much pressure was brought to bear upon the Senate not to admit him, he was admitted.

## CHAPTER XVIII.

### THE RATIFICATION OF THE CONSTITUTION.

ARTICLE VII. *The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.*

**Number of States Necessary for Ratification.** There was much uncertainty as to how many of the States would accept the Constitution. So the convention which made it decided that if as many as nine of the States accepted the Constitution, it should go into effect in those nine. But if as many as nine States could not be got to try the new Constitution, it was not worth while to try it, and either the Constitution must be changed so as to suit more of the States, or the old government under the Articles of Confederation must continue until the States were ready for a new one.

**The Constitution Ratified.** The Constitution was to be ratified by conventions in the different States. The members of these conventions were elected by the people. Within a year all of the States but North Carolina and Rhode Island had ratified the Constitution, and it went into effect in the eleven States that adopted it. North Carolina ratified the Constitution and joined the Union during the first year of the new government, and Rhode Island did the same the next year.

**If Any State Had Not Ratified.** What would have happened if one of the States had persisted in refusing to enter the Union? It is very doubt-

ful whether it could rightfully have been forced to accept the new government, though some authorities claim that it could. No doubt Congress would have endeavored to bring it into the Union by cutting off free trade between it and the other States or by other restrictions. And the other States would probably have been justified in preventing it from connecting itself with any foreign country. Fortunately, however, all of the States presently accepted the Constitution and all such difficulties were avoided.

## CHAPTER XIX.

### THE AMENDMENTS TO THE CONSTITUTION.

**Difficulty of Amending the Constitution.** The usual mode of amending the Constitution requires the concurrence of two-thirds of both Houses of Congress and majorities in three-fourths of the State Legislatures. To secure such general interest and agreement upon any one measure is so difficult that amendments are rarely made.

**The First Ten Amendments. A Bill of Rights.** When the Constitution was made and submitted to the States for ratification, there was general complaint that it did not sufficiently protect the rights of the people. So it was generally agreed that if the States would ratify the Constitution as it stood, it would be so amended as to fully protect these rights. For this purpose twelve amendments were proposed by the first Congress, ten of which were ratified by the State Legislatures. As these ten amendments were adopted to secure the rights of the people, they are often called a Bill of Rights.

**The First Ten Amendments Do Not Apply to the States.** It is very important to remember that these amendments apply to the United States government only, and are not restrictions upon the States. The things here forbidden are forbidden to Congress or the President or the United States Courts. The State Legislatures, Governors, and courts are not bound by them. The State constitutions generally have similar provisions to protect the rights of the people from the State governments, but these were made by the States themselves, and

may be changed by them. Some of the other amendments do apply to the States, as will be seen later.

**First Amendment.** *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.*

**No State Church.** In most countries there is a State Church, to which the rulers belong, and which is specially favored and sometimes supported by the government. No such State Church can be established in the United States, and Congress must not interfere with the right of anyone to worship as he pleases. Nowhere in the world are Christian churches better sustained or more efficient than in the United States. The absence of a State Church and freedom of worship have been an advantage both to the country and to the cause of religion.

In England the Episcopal Church, or Church of England, as it is there called, is the state church. In Scotland it is the Presbyterian Church. In most of the states of Germany the state church is Lutheran, though in a few of them it is Catholic. In Austria it is Catholic. In Russia it is Greek. France is the only great European nation with no state church.

**Free Speech and a Free Printing-press.** Congress cannot pass laws to prevent men from saying or printing what they please. But they may be held responsible for the results of their utterances. If what they say or write stirs up riot or rebellion they can be punished. And if they injure others by talking against them (slander) or by printing articles against them (libel), they can be made to pay damages to those whom they have thus injured.

Tyrannical rulers have generally forbidden the people to hold meetings to discuss their wrongs, or to petition for relief

from them. But Congress must not prohibit such meetings, so long as they are peaceable.

**Second Amendment.** *A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.*

**Opposition to a Standing Army.** The American people have always been opposed to a large standing army, because such armies have repeatedly been used to deprive people of their liberties. This could scarcely be done with militia, or citizen soldiers. As has already been explained, all able-bodied male citizens between the ages of eighteen and forty-five years are enrolled in the militia, and if necessary could be required to join the army. And in each State part of them voluntarily form companies and regiments for military drill.

Always in time of peace and usually in war the United States has found enough men willing to volunteer to furnish it with soldiers. But during the Civil War this was not always the case. A part of the enrolled militia were drawn by lot, or drafted, and had to serve as soldiers, or to send substitutes in their places.

**The Right to Have and Bear Arms.** A militia must have arms for drill and to be ready for war. Besides, the first step toward depriving a people of liberty has generally been to take away their arms. So Congress must not prevent people from having or carrying arms.

This amendment would not prevent Congress from providing how arms shall be carried. And the States, although their constitutions generally have a similar clause, all forbid the carrying of concealed deadly weapons. For instance, a man may walk along the street with a gun on his shoulder, but the law forbids him to carry a pistol in his pocket.

**Third Amendment.** *No soldiers shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.*

**Quartering Soldiers.** Quartering soldiers is sending them to private houses and requiring the people there to lodge and feed them. This was once a common practice, and was a serious abuse. It is forbidden entirely in time of peace. In time of war it may be necessary, but even then it must be according to law and would probably be paid for.

**Fourth Amendment.** *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.*

**Searching for Illegal Possessions.** This amendment forbids officers of the United States to make illegal searches for stolen goods or other property illegally held. Most cases of theft, however, are violations of State laws, and the State constitutions must furnish protection in such cases.

When property has been stolen the owner may go to the justice of the peace or magistrate, and under oath describe the goods stolen and give his reasons for having a certain place searched for them. The magistrate may then give the constable, or officer, a search-warrant, authorizing him to search the place for the stolen goods.

Without a search-warrant, or a warrant for the arrest of an inmate, no man has a right to enter the home of another without his consent. It is an old maxim of law that "a man's house is his castle," and he has a right to resort to any necessary means to defend it against illegal entrance.

**Fifth Amendment.** *No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor*

*shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.*

**Safeguards in Criminal Trials.** This amendment and the next one are very important in securing fair trials in the District and Circuit Courts to persons charged with crimes against the United States. And trials in the State courts are safeguarded by the State Constitutions in about the same way.

**The Grand Jury.** A grand jury in the courts of the United States consists of not less than sixteen nor more than twenty-three men,[1] drawn by lot, who before a prisoner is tried examine the evidence against him to see whether it is worth while to try him. No one can be tried in a United States Court for a serious crime without the approval of a grand jury. But such a formality in the army and navy would often be impossible, and it is sometimes imperative that offences there should be dealt with immediately. As has already been explained, offences in the army and navy are tried by committees of officers called courts-martial.

A capital crime is one punishable by death, but an infamous crime is not easily defined. Judge Cooley says that it "is one involving moral turpitude in the offender, or infamy in the punishment, or both." But in practice, all charges of crime are submitted to grand juries in the United States Courts.

An indictment is a written accusation of crime drawn up by the district attorney and laid before the grand jury. If twelve or more of the grand jury agree that the case should be tried they approve the indictment, or "find a true bill;" but if not, they "ignore the bill," and the prisoner

[1] Twenty-four men are drawn on a grand jury, but if all can serve, one is excused, so that twelve may be a majority of the jury, since twelve decide whether there shall be a trial or not.

is released. He may, however, be indicted and tried at a later term of court. A presentment is an accusation brought by a grand jury from its own investigation or knowledge.

**In Jeopardy of Life or Limb.** This is an old legal phrase which simply means tried on charge of a crime. In the United States Courts, therefore, no man who has been once tried and acquitted can be tried again for the same offence, no matter how much evidence may afterward be found against him. But when he has been convicted the judge may grant him a new trial if injustice has been done.

**The Prisoner as a Witness.** Formerly men were often compelled to testify against themselves, and were sometimes tortured to make them confess. Persons accused of crime are allowed to testify in their own trials, but cannot be compelled to do so in the United States Courts, nor in the State courts.

**Life, Liberty, and Property Protected.** The United States cannot take away the life, liberty, or property of the humblest person unless the law gives the right to do so. And whenever private property is taken for public use, as through eminent domain, it must be paid for.

**Sixth Amendment.** *In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.*

**Criminal Trials.** After a person has been indicted by a grand jury he is tried by a judge and jury. As has been

explained before, a trial jury has twelve members, who must be unanimous either to convict or acquit. An accused person is entitled to a speedy trial, so that he may soon have opportunity to establish his innocence. It must be a public trial in order that all men may see that it is a fair one. The person to be tried must be told beforehand of the charges against him, that he may prepare his defence. He has a right to hear the testimony of the witnesses against him, so that he may answer it. If his witnesses are unwilling to come to the trial and testify, they can be made to do so. And if he is too poor to employ a lawyer for his defence, the judge will appoint one for him.

These provisions of the Constitution show how carefully the rights of those accused of crime are guarded. Innocent persons are rarely convicted in this country, either in the United States or State courts. No doubt the guilty often go free because judges and juries are afraid of punishing the innocent. It is a common saying in the courts that "it is better that ninety-nine guilty men should go free than that one innocent man should be punished."

**The Lynching Peril.** In many parts of the United States there has grown up an alarming disposition among the people to form mobs and lynch without trial persons charged with grave crimes. Not only have innocent persons been repeatedly murdered by such mobs, but a widespread disrespect and disregard for law and order have grown up, which threaten seriously to endanger our rights and liberties. In no other civilized country in the world are such frequent mob murders tolerated as in the United States. It is the urgent duty of Legislatures and courts to remove as far as possible all provocation to such crimes, by securing prompt trials for crimes and adequate and unfailing punishment for the guilty. And

it is equally the duty of all good citizens to strongly oppose every such act of lawlessness and every tendency toward it, so that this disgrace and peril to our country may be removed.

**Seventh Amendment.** *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.*

**Civil Suits.** This amendment refers to civil suits, or suits concerning property, in the United States Courts. Although it has never yet done so, Congress could pass a law providing that civil suits involving less than twenty dollars should be finally decided without a jury trial—say, by a United States Commissioner. But it could not compel the settlement in this way of suits involving twenty dollars or more.

When the Constitution was adopted civil suits were almost entirely brought under the common law, and this is still generally done both in the United States and State courts.

By the common law, when a case which had once been tried by a jury was appealed to a higher court, the judges of the appellate court could not reverse the facts in the case as determined by the jury. They could reverse the judge's decisions in the case, if any of his decisions had been illegal, and this might necessitate a new trial. But unless the judge of the lower court had made such mistakes the appellate court could not change the verdict nor order a new trial, no matter how mistaken they might think the jury's verdict to be. But the common law allows the judge, before whom a case is first tried, to order a new trial either in a civil or criminal case, if he believes the verdict of the jury is clearly against the weight of the evidence.

**Eighth Amendment.** *Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

**Giving Bail.** When a person is charged with crime he is first given a hearing before a magistrate. Unless the crime is a trifling one, the magistrate does not decide the case, but if the evidence is sufficient he sends it to court for trial. As the law presumes every man to be innocent until he is proved to be guilty, it would be unjust to keep him in jail until the time of his trial. if in any other way he can be kept from running away before the trial comes off. In all cases except where the punishment for the crime is likely to be death, the magistrate, or judge, fixes a certain sum as bail or security in the case. And if any responsible person will agree to forfeit the amount of the bail if the prisoner should not appear for trial, he is released until the trial comes off. If the prisoner has no friends to go his bail, or if his friends will not go his bail for fear he will run away from his trial, he must stay in jail until his trial comes off.

If a person out on bail should run away from his trial his bail would be forfeited, but he would not be relieved from trial. If he could be found he would still be tried and would be more likely to be convicted, and if convicted would be more severely punished than if he had not tried to escape trial.

**Excessive Bail Forbidden.** If very heavy bail were demanded people might be unable or unwilling to furnish it, and prisoners who were clearly entitled to be released on bail might be kept in jail. So the Constitution forbids excessive bail to be required.

**Excessive Fines and Cruel and Unusual Punishments.** The laws allow many crimes to be punished partly and sometimes wholly by fines. But if excessive fines were not forbidden, great injustice might sometimes be done. Especially is this true from the fact that when prisoners cannot pay their fines they are often detained in prison for a time proportionate to the amount of the fine.

Once barbarous and cruel punishments were common, as the old English punishment for treason, which has already been described. Men's hands were cut off and they were otherwise maimed or tortured for offences which are not now considered serious. All such are forbidden by this clause and are also generally forbidden in the State constitutions.

In order to be forbidden by this clause a punishment must be both cruel and unusual. Hanging might be thought to be cruel, but it was not unusual when the Constitution was adopted, so that it is not prohibited. When New York made its death penalty electrocution instead of hanging, the Supreme Court was appealed to, to set aside the law as being contrary to this clause. The court decided that this amendment did not refer to State laws, but remarked in its decision that, while electrocution was an unusual punishment, there was no evidence that it was also cruel.

**Ninth Amendment.** *The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.*

**Other Rights of the People.** For fear that it might sometime be claimed that the rights mentioned in these amendments or in the original Constitution are the only rights of the people, this amendment was inserted.

**Tenth Amendment.** *The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.*

**Powers Left to States and People.** The national government has only the powers which the Constitution gives it. But as has already been shown (p. 90), in addition to the powers expressly given to it in the Constitution, it has certain implied powers, which properly go with those expressly given. When this amendment was proposed by Congress an attempt was made to prevent the government from having any implied

powers by making the amendment read "*The powers not expressly delegated,* etc.," but this was defeated in order that implied powers might be used when necessary.

All the powers which the States did not thus give to the national government remained in the separate States. And all the powers of the people not thus given up still belonged to the people.

**Eleventh Amendment.** *The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.*

**An Individual Cannot Sue a State in a United States Court.** This amendment, as already explained (p. 151), prevents any individual from suing a State in the United States Courts. Such a suit may be brought in the courts of that State, but there is no way to compel the State to pay the claim, when the suit is decided against it, although it usually does so. This amendment was ratified in 1798.

**Repudiation of State Bonds.** Several States have taken advantage of this amendment to repudiate their bonds, which were owned by citizens of the United States or of other countries. The courts of the repudiating States would give no relief, and this amendment prevented the owners of the bonds from suing the States in the United States Courts. But in 1901 the owners of $10,000 worth of the repudiated bonds of North Carolina gave them to the State of South Dakota, with the suggestion that the State collect them and give the proceeds to some of the State Institutions. As one State can sue another in the United States Courts South Dakota brought suit against North Carolina in the Supreme Court, and in 1904 the Supreme Court decided that North Carolina must pay to South Dakota the principal and interest on these bonds. Whether this will lead the other holders of repudiated State bonds to give them to

States or foreign countries for collection, or will induce the repudiating States to come to satisfactory terms with the owners of these bonds, remains to be seen.

**Twelfth Amendment. Election of President.** This amendment established the present plan of electing the President and Vice-President, and has already been given and explained (pages 111 to 117). It was ratified in 1804.

**The Civil War Amendments.** For more than sixty years after the adoption of the Twelfth Amendment, no new amendments were added to the Constitution. But one of the results of the Civil War was the adoption of three more amendments, dealing with the problems of that war.

**Thirteenth Amendment.** SECTION 1. *Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

SECTION 2. *Congress shall have power to enforce this article by appropriate Legislation.*

**Slavery Finally Abolished in the United States.** This amendment was adopted in 1865, soon after the close of the Civil War, and was intended to abolish the remnants of slavery still remaining in the United States, and to prevent it from being ever re-established. The second section was unnecessary. Congress would have had the same power without it.

Congress had abolished slavery in the District of Columbia and in the Territories in 1862, as the Constitution gave it the right to do. President Lincoln's Emancipation Proclamation declared slavery abolished on January 1, 1863, in all parts of the South which were then in rebellion. This was a war order, issued by the President as Commander-in-chief of the army and navy, and was enforced as fast as the South was conquered. But slavery in Delaware, Maryland, Kentucky, Tennessee, Missouri, and in parts of Virginia and Louisiana was not affected by the Eman-

cipation Proclamation. Maryland abolished slavery by amending its own constitution in 1864. But in these other States slavery was not legally abolished until the adoption of this amendment.

**Fourteenth Amendment. Adopted in 1868.** SECTION 1. *All persons born or naturalized in the United States, and subject to the jurisdiction thereof are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.*

**Who are Citizens.** The famous Dred Scott decision of the Supreme Court had decided that negroes were not citizens of the United States. This amendment reverses that decision, and makes negroes and all other persons born or naturalized in the United States citizens, both of the United States and of the State in which they live.

Congress has forbidden Chinamen to be naturalized, no matter how long they may live in the country, but Chinese children born in the United States are citizens.

The foreign ambassadors and ministers living in Washington are not subject to the jurisdiction of the United States but of their own governments. And children born to them there would not be "subject to the jurisdiction" of the United States and therefore not citizens.

**The Rights of Citizens.** After the Civil War, Congress feared that emancipated slaves would be denied their rights, and might upon some pretext even be deprived of their freedom, so the first section of this amendment goes on to forbid any State to abridge the privileges or immunities of any citizens, or unlawfully to deprive any person, even if he were not a citizen, of life, liberty, or property. And it

requires that all persons in the State shall have equal protection by law.

**Fourteenth Amendment.** SECTION 2. *Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of the State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.*

**The Apportionment of Representatives.** It will be remembered that the Constitution originally required that Representatives should be in proportion to population, but in determining the population for this purpose only three-fifths of the slaves were to be counted. The slaves were now all freed, and this section begins by requiring that everybody, except the untaxed Indians, shall be counted in the apportionment of Representatives.

**Representation and Suffrage.** When this amendment was proposed negroes were still deprived of the right to vote, not only in the South, but in most of the Northern States. It was one of the most important purposes of this amendment to induce the States to allow these negroes to vote. To do this, it provides that if in any State, male citizens, who are twenty-one years of age, and who have not been guilty of rebellion or

crime, are prevented from voting for Presidential electors, Representatives or the important State officers, the number of Representatives from that State shall be reduced in the same proportion that the vote is thus reduced.

For instance, if half of its male citizens of voting age were not allowed to vote, a State's representation in Congress was to be cut down one-half. This would also reduce the State's electoral vote for President and Vice-President.

Congress has never deemed it expedient to enforce this provision of the Constitution, and it has so far been a dead letter. In Georgia, Mississippi, Pennsylvania, Virginia, Arkansas, South Carolina, and Tennessee voters must pay taxes. In Connecticut, Massachusetts, Wyoming, and several of the Southern States an educational qualification is required of voters. But in most of these Southern States the educational qualification does not apply to persons whose ancestors had the right to vote before negro suffrage began, and who registered within a given time after the law was made, it being intended to prevent only ignorant negroes from voting. This provision in the constitutions of these States is popularly known as " the grandfather clause."

**Fourteenth Amendment.** SECTION 3. *No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House remove such disability.*

**Confederate Leaders Meant.** This section was intended to reach the leaders of the Southern Confederacy. The Confederates who had held United States offices or important

State offices had all sworn to support the Constitution of the United States. Those who effected this amendment believed that these persons had violated their oaths, and determined to take from them the right to hold either national or State office.

**This Disability Now Entirely Removed.** Congress was given the right to remove this disability by a two-thirds vote of each House. This right was repeatedly exercised, until in 1898, during the war with Spain, all the remaining disabilities were removed.

**Fourteenth Amendment.** SECTION 4. *The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.*

SECTION 5. *The Congress shall have power to enforce by appropriate legislation the provisions of this article.*

**The Debts of the United States Must be Paid.** After the close of the Civil War it was feared in the North that when Senators and Representatives from the South were again admitted to Congress, they would attempt to have the public debt repudiated, or at least that part of the debt which was made in pensioning the Union soldiers, or in giving men bounties for enlisting in the Union army. The addition of this clause to the Constitution took away from Congress all power to do this.

**The Confederate Debt and Slave Losses Must Never be Paid.** In order to carry on its war with the North the Confederate

government borrowed large sums of money both from its own citizens and in Europe. This amendment forbade either Congress or the Southern States ever to pay any of these debts, and they became a total loss.

In the same way, both Congress and the States were forbidden ever to pay slaveholders for their slaves which were emancipated through the Civil War.

**Fifteenth Amendment.** SECTION 1. *The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous conditions of servitude.*

SECTION 2. *The Congress shall have power to enforce this article by appropriate legislation.*

**To Secure Negro Suffrage.** The attempt to induce the States to give negroes the right to vote, by threatening to cut down their Congressional representation, failed completely in the Southern States; not one of them granted it. Congress proposed this amendment, which was ratified in 1870. In forbidding the States to deprive anyone of the right to vote on account of either race, color, or previous condition of servitude, it was believed that there was no way in which the negroes alone could be disfranchised. But in recent years the negro vote in the Southern States has been largely suppressed by educational or property qualifications for voters, which have been prevented from interfering seriously with the white vote by "grandfather clauses" or other devices.

**No Additional Amendments in Sight.** The influence of the Civil War upon the Constitution ended with the Fifteenth Amendment. Since then there has never been the general and overwhelming popular sentiment in favor of any proposed amendment that is necessary to secure its adoption. The

movement so to amend the Constitution as to transfer the election of Senators from the State Legislatures to the people has met with more favor than any other of recent years, but public opinion will need to be more strongly aroused before such an amendment is adopted.

# THE GOVERNMENT

OF THE

# STATES.

## CHAPTER XX.

### THE STATES AND THEIR GOVERNMENT.

**The Formation of States.** The thirteen States which made up the United States when its Constitution was made have now increased to forty-five. A part of these States were made out of the western lands which at first belonged to some of the old thirteen States, and which those States gave to the United States about the time the Constitution was made. But most of them have been made out of the great areas which the United States has acquired from time to time since the Revolutionary War. As the different parts of this territory filled up with inhabitants, and became fit for the self-government of statehood, they were made into States, until now, with the exception of Arizona, New Mexico, Oklahoma, the Indian Territory, the District of Columbia, Alaska, Porto Rico, and the islands recently acquired in the Pacific Ocean, the whole territory of the United States is divided up into States, all largely self-governing, and all having the same rights and share in the national government as the orginal thirteen States.

As has already been explained, each of these new States has been admitted to the Union by Congress. There never have been any set requirements of population or wealth for the admission of new States, but it has depended in each case upon the judgment of Congress as to the fitness of the community for statehood, and its advantage to the States already in the Union.

**The Relation of the National Government and the State Government.** It is of the greatest importance to understand clearly the relation of the national government to the State governments. We are all subject to the United States and the laws passed by Congress, under the authority of the Constitution. But each State also has its own constitution and laws, and the citizens of any State are subject to the constitution and laws of their own State, as well as to those of the United States. The Constitution of the United States, as interpreted by the Supreme Court of the United States, decides which kinds of laws Congress may pass, and then the States may pass such additional laws as are necessary for their own residents. The laws passed by Congress, are such as should be the same all over the country, while those that are left for the States to pass are such as might need to be different in the different parts of the country. Since the United States and State laws are intended to be about different things, it is not expected that they will conflict. But if there should be a conflict between a law of the United States and a law of any State, the residents of that State must obey the law of the United States, and not that of their own State. And the Supreme Court of the United States has the final decision as to whether a State law conflicts with the laws of the United States.

It may make this matter clearer if we think of the rules of our own school in connection with the laws of the country. All of the students in a school are subject to the laws of the country which forbid robbery, murder, and other crimes. They are also subject to the laws or rules of their school. So all who live in a certain State must obey the laws of their own State, and the laws of the United States as well.

It must be remembered that the laws made by any State are in force only in that State. And if a man leaves his own State and goes to another even to stay for a short time only, he is subject to the laws of

the new State. Just as when a boy changes schools he must obey the rules of the new school, no matter how different they may be from those of his old one.

**The State Constitutions All Somewhat Like the Constitution of the United States.** The Constitution of the United States requires that each State shall have a republican form of government. This necessarily makes the State government something like the United States government. And those who form the State governments would naturally imitate the United States government more or less closely. So we find that all the States have legislative bodies to make their laws. These are called Legislatures and not Congresses.

The Legislatures of the States are, like Congress, always divided into two bodies, and these are commonly known as the Senate and the House of Representatives. So each State has its two United States Senators and its State Senators, who vary in number in the different States, but are always considerably more than two. And besides its Representatives in Congress each State has its State Representatives, always more numerous than its Congressmen. Each State has a chief executive, called a Governor, who enforces the State laws in his own State, much as the President enforces the United States laws all over the United States. And each State has its own judges and its courts, who interpret and apply its State laws, just as the United States Courts interpret and apply the United States laws. And yet we find the constitution and laws of any State differing in many details from the Constitution of the United States, and partly because in many of the States the people believe that in some things experience has shown that they can improve upon the Constitution of the United States.

**Knowledge of State and Local Government Important.** People generally do not appreciate the importance of their State government, for the great majority of the laws which govern us all in our daily lives are State laws and not United States laws. Most persons could not mention half a dozen of the laws of Congress which directly affect their safety or their property; almost all such laws that they would naturally think of would be found to be State laws. So it is very important to learn about the government of one's State.

There is, as has been said, a general resemblance among the constitutions of the different States, and many laws are the same or nearly the same in different States. This is partly due to the requirements and influence of the Constitution of the United States; but also largely due to the influence of the early State constitutions, which have been more or less closely imitated in the newer States. Yet there are so many differences among the constitutions and the laws of the various States that they can only be treated very generally here, and students should by all means get more knowledge of their own State governments than is found here.

In many of the States manuals or handbooks are published by the State for free distribution, which are very useful to the teacher of civil government. The State Superintendent of Public Instruction can give information concerning them.

**How State Constitutions are Made.** The people of each State make their own constitution. Usually a constitutional convention, made up of members elected by the people of the different parts of the State, meets and prepares the proposed constitution. This is then submitted to the voters, and, if they approve it, it becomes the constitution of the State.

Each State constitution provides for amendments. These are generally suggested by the State Legislature, and adopted by a vote of the people.

**The State Legislatures.** In each State the laws are made by a Legislature composed of two bodies, a Senate and a House of Representatives, the Senate being always smaller than the House of Representatives. The members of the State Legislature are elected by the voters in the different parts of the State. In most of the States Representatives are elected for two years and Senators for four years.

**Making State Laws.** In all but a few of the States the Legislatures now meet but once in two years. The State Legislatures make the State laws in very much the same way as Congress makes the United States laws. All laws must pass both branches of the Legislature, and if vetoed by the Governor may, by sufficient majorities in both branches, be passed over his veto. The House of Representatives is always presided over by a Speaker, chosen by the Representatives from their own number. Many of the States elect Lieutenant-governors, who, following the example of the Vice-President, preside over their State Senates.

**Legislation by the People.** In some parts of the country there is a strong feeling that when the Legislature neglects to pass laws for which there is a popular demand, the people should have an opportunity to vote directly for or against the adoption of such laws. And in a few of the Western States this may now be done. This plan of referring a proposed law directly to the voters for adoption or rejection is called Referendum. Sometimes a certain part of the voters have a right to demand a Referendum on a law which they desire to have passed. This is called Initiative. The practice of Initiative and Referendum in this country has

come from Switzerland, where they are much used. They are growing in favor in the United States, and are likely to become important factors in our government.

**The Executive Departments.** The chief executive of each State is called a Governor, who is always elected by the voters of the State. The Governor's term of office in the different States varies from one to four years. In all but three of the States the Governor has the right to veto bills passed by the Legislatures. As the chief executive of the State he is commander-in-chief of the State militia, and when the local officers are unable to keep order, or to execute the laws, it is his business to do so. But ordinarily the laws of the State are executed by local officers who are not appointed by the Governor, but elected by their own communities. There are other State officers in charge of the various departments of government, who bear some resemblance to the Cabinet officers at Washington. But they are generally elected by the voters of the State, and, in comparatively few cases, appointed by the Governor. While the Governor of a State, and especially of one of the greater States, is an important officer, and his position much sought after, yet the Governor does not have nearly so much power in a State as the President does in the United States.

**The Judicial Department.** Each State has its own courts, wholly independent of the United States Courts. And suits arising under the laws of the State are tried only in the State courts, and cannot be carried to the United States Courts, unless it appears that the laws or Constitution of the United States are in some way involved in the case.

**Judge and Jury.** The most important court officials are judges and jurymen. At first the State judges were generally appointed for life or good behavior by the Governors, as the

United States judges are still appointed by the President. But this has gradually been changed, and now State judges are almost universally elected by the people, and not for life, but for fixed terms, which are often short. Jurymen are chosen by lot from a list of suitable persons selected from the voters of the district. In most of the States, in criminal trials, grand juries of twenty-three, or almost twenty-three, first decide whether the cases should be tried; then the guilt or innocence of each person tried is decided by a jury of twelve. In civil suits—that is, those concerning property or rights—there is no grand jury, but a jury of twelve decides the case, although by mutual agreement such suits can generally be decided by the judge alone. Until recently the whole twelve members of a jury had to agree in order to settle a case, but now several States allow two-thirds or three-fourths of a jury to decide a civil suit, and in one State five-sixths of a jury may decide certain criminal cases.

**Lower and Higher Courts.** All the States have several grades of courts. The lowest is held by a Justice of the Peace, or a Magistrate or Alderman, as he is sometimes called. Criminal suits and minor civil suits generally begin here. The Justice, or Magistrate, usually has no jury, but himself decides the unimportant cases and sends the important ones to the county courts. Each county has its own court, and the location of the court house and jail fixes the county seat. A large county may have a judge to itself, and a very large county several judges. But very commonly one judge holds court in several counties in turn. Everywhere there are State courts above the county courts. These are generally appellate courts, and persons dissatisfied with the results of trials in the county courts may appeal to

these courts for a rehearing of their cases. Most States have two such appellate courts, of which the higher is generally known as the Supreme Court. The decision of this court is final in all legal questions which have to do only with the State.

**Public Schools.** Schools are not mentioned anywhere in the Constitution of the United States, and Congress has never undertaken to establish a national school system, as the governments of most other countries have done. Here this has been left to the States, and each State has established a system of free public schools. This includes elementary schools everywhere, high schools in cities and larger towns, and in many of the States colleges and universities of high rank. The management of the elementary and high schools is generally left in the hands of the various communities, but the laws regulating them are made by the State, and the State usually aids the communities in supporting them.

# CHAPTER XXI.

## LOCAL GOVERNMENT.

**Counties.** For convenience of local government each State is divided into divisions called counties. A county has no law-making body of any kind, and so makes no laws for itself. But it has various county officers, usually elected by its own voters, who carry out the State laws in that county. As has already been said, each county has its own court, held at the county seat. It may share its judge with one or more other counties, but its jurymen and other court officials belong to the county.

Students should know the names, duties, mode of election or appointment, etc., of their county officers, which can be obtained from any well-informed person in the community. These differ so much in different States that any attempt at detail here would be misleading. The same suggestion applies to the governments of townships, cities, etc., and, indeed, to those of the States.

**Towns.** In New England the counties are divided for better local government into small divisions called towns. In these towns the voters meet each year in the town hall, and decide upon the taxes and expenditures of the year. Each town supports its own schools and roads, and elects officers to manage them and to prevent crime and disorder in the town.

It must be remembered that in New England the word town does not mean village, or city, but an area of farm land, though including, perhaps, one or more villages. There are many towns in New England with scarcely two houses in sight of each other.

**Townships.** In the Middle Atlantic and Middle Western States, and in some farther west, the divisions of a county are called townships. The townships, too, take charge of their own schools and roads, and elect officers to prevent crime and disorder, but, except in the northern part of the Middle West, there are no town meetings. The voters elect officers, who not only manage the schools, roads, etc., but lay and collect the taxes to support them. Neither townships nor towns have any law-making bodies, their laws all being made for them by the State.

In the Southern States there is generally no complete subdivision of the counties. Most of the functions of the towns and townships of the North and West are, in the South, left to the counties.

**Cities.** A city is also a part of a county, but, because it is so populous and so closely built, it needs a different government from that of a township or town. The State gives to its cities the right to make minor laws for itself, and for this purpose each city elects a Council, or generally two Councils, which also fix and spend the city's taxes. The chief executive of a city is a Mayor, who enforces the city's laws and generally approves or vetoes the acts of the Councils.

**The Problem of City Government.** The rapid growth of cities in the United States and, indeed, in the world generally is remarkable. When the Constitution of the United States was adopted only three per cent. of its population lived in cities, in 1900 thirty-three per cent. were there, and this proportion is constantly increasing. The honest and efficient government of the great cities is probably our most difficult public problem. It is now believed that the best way to govern a large city is to give great executive power into the hands of the Mayor, to allow him to appoint

and remove the other executive officers of the city, so as to put upon him the responsibility of faithfully executing the city laws. It is believed that the voters will take a more active interest in the selection of a good Mayor if they can hold him responsible for the honest and efficient government of the city. And in the United States the tendency now is to give the Mayors of cities more power, and generally with better results.

**Boroughs and Incorporated Villages.** In some of the States villages and towns too small to be cities may be separated from the townships, or rural towns, and become partially self-governing. In some States these are called boroughs, in others incorporated villages. They have a modified and simpler form of city government, which enables them to have graded schools, improved streets and sidewalks, and, perhaps, even public water or light works, for which the rural part of the township would not be willing to help pay.

# CHAPTER XXII.

## NOMINATIONS AND ELECTIONS.

**Political Parties.** As has already been said, there have always been two great political parties in the United States. These are now called the Republican and Democratic parties. The essential distinctive purpose of the Republican party of to-day, like that of its predecessor, the Federal party of Alexander Hamilton, is to strengthen and increase the powers of the National government, rather than of the State governments; while the Democratic party, like the original Republican party of Thomas Jefferson, still aims to strengthen the State governments, and to prevent any encroachment on State rights by the National government. Minor parties have frequently arisen that have carried local elections and have influenced the policies of the two great parties, but none of them has ever got control of the National government. The President and members of Congress, the Governors and Legislatures of the States, and generally the county, city, and other local offices, are elected by and represent the views of political parties. Even the United States and State judges are usually chosen from the party in power at the time of their appointment or election, but they are not expected to be, and usually are not, influenced by political motives in the discharge of their duties.

**Nominations.** In order that a political party may elect officers its members must all vote for the same person for

each office, and, to do this, must select candidates for the offices to be filled. This selection of candidates for office by a party is called a nomination, and has come to be one of the most important proceedings in our government. These nominations are made either by conventions composed of delegates who have been elected by the voters of the party, or are selected directly by the voters of the party. The elections for delegates to a nominating convention, or for party candidates, are called primary elections (or primaries), and only the voters belonging to the party take part in them. In many places one party is so much stronger than the other that its nominees are practically sure of an election; in such cases the primary elections are more important and more strongly contested than the regular elections.

**Elections.** Elections are now generally conducted on the Australian ballot plan, so called because first used in Australia. By this plan the election tickets are printed at public expense, and contain the names of the candidates of all the parties. Each voter secretly marks his ticket to show his choice among the candidates, and the ticket is put into the ballot box without anyone else knowing how he voted. The voting goes on all day, and the elections are conducted and the votes counted by officers selected from different political parties. People generally vote for the candidates of their own party, but may, of course, vote for other candidates if they like, and may even vote for persons who are not candidates of any party, by writing their names on the ballots.

Teachers should, if possible, get regular or sample ballots from the local election officers in order to show and explain them to their students, and should also encourage them to get and bring to class practical information about elections and other details of government. Holding

elections in the school on the regular election days will be found to be full of interest and instruction, and gives to the teacher an opportunity to impress upon the future voters the importance of their taking an active part in the primary and general elections, and the fact that our country's future depends, more than upon anything else, upon the intelligence, integrity, and vigilance of its voters.

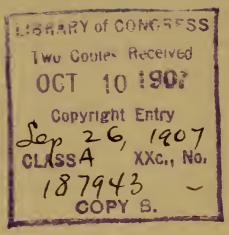
# WASHINGTON, D. C.

# THE NATIONAL CAPITAL.

BY

WALTER B. PATTERSON,

SUPERVISING PRINCIPAL, WASHINGTON PUBLIC SCHOOLS; MEMBER OF THE DISTRICT OF COLUMBIA BAR, AND OF THE VIRGINIA BAR.

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# THE CITY OF WASHINGTON.

**Need for a National Capital.** During the period of the Revolution the vicissitudes of war forced the American Congress to move from place to place. Under the Articles of Confederation the disposition to move about still prevailed. In the interval between the Declaration of Independence and the ratification of the Constitution, sessions were held in Philadelphia, Baltimore, Lancaster, York, Princeton, Annapolis, Trenton, and New York. Naturally, therefore, the question of a proper seat for the new government was in the minds of the leading statesmen. A short time before, in the Constitutional Convention, through the influence of Mr. Madison, a provision had been framed by which the power was given to Congress "to exercise exclusive legislation in all cases whatsoever over such district, not exceeding ten miles square, as may by cession of particular States and the acceptance of Congress become the seat of government of the United States." At the first session of Congress under the Constitution, held in the city of New York, a Pennsylvania member introduced a resolution as early as the 27th of August, 1789, to the effect that "a permanent residence ought to be fixed for the general government of the United States at some convenient place as near the centre of wealth, population, and extent of territory as may be consistent with convenience to the navigation of the Atlantic Ocean and have due regard to the particular situation of the Western country."

**The Selection of the Site.** In the bitter debates that followed many places were suggested as suitable, but the final decision came to a choice between a location on the banks of the Susquehanna and one on the banks of the Potomac. By a compromise between the friends of Hamilton and those of Jefferson, an agreement was at last reached by which the seat of government was given to Philadelphia for ten years and permanently thereafter to a location near Georgetown, on the banks of the Potomac, and at the same time Hamilton's desire for the assumption by the Nation of the debts incurred by the several States in maintaining the Revolutionary War was granted. In July, 1790, an act was passed that gave to Washington the sole power to select the Federal Territory on the river Potomac, the new seat to be ready for use in 1800, and during the meantime Philadelphia was to be the temporary Capital. Washington's selection was promptly made, embracing an area about ten miles square, located on the Potomac River, a little over one hundred miles from the junction of that river with Chesapeake Bay. As his selection was not strictly in conformity with the act of July 16, 1790, inasmuch as it was not wholly above the mouth of the Eastern Branch, an amendment was passed by Congress and approved March 3, 1791, by which the President was authorized to include the town of Alexandria and adjacent lands lying below the Eastern Branch, or Anacostia River, as well as the lands above on both sides of the Potomac.

**The Maryland and Virginia Cessions.** The portion east of the Potomac, containing 69.245 square miles, was ceded by Maryland, and the portion west of the river by Virginia, though the latter, upon the petition of its inhabitants, was receded to Virginia in 1846, so that the present District of Columbia embraces the Maryland cession only. The

sum of $120,000 was voted by the Virginia Legislature as a free gift toward the erection of public buildings. Maryland, also, besides ceding the land, gave $72,000 for a similar purpose, and subsequently loaned a quarter of a million dollars, with the stipulation that the government buildings should be erected upon the Maryland side of the river. In pursuance of the authority granted him by Congress, Washington appointed three Commissioners—Thomas Johnson and Daniel Carroll, of Maryland, and David Stewart, of Virginia, with authority, under the direction of the President, to make experimental lines of survey and to define the accepted district or territory. They were also empowered to purchase or accept such lands on the Eastern side of the river within said district as the President might deem proper, for the use of the United States.

**The Actual Survey and the Planning of the City.** In a letter dated Philadelphia, February 2, 1791, Mr. Jefferson, the Secretary of State, directed Major Andrew Ellicott to proceed by first stage to the Federal territory on the Potomac for the purpose of making a survey of it, and in the same letter a wish was expressed that the survey be made with all possible dispatch. Ellicott at once assumed charge of the actual survey, marking with boundary stones the outlines of the Federal territory, which work he reported as completed January 1, 1793. The next month, March, 1791, Jefferson also wrote to Major Pierre Charles L'Enfant as follows:

"SIR: You are directed to proceed to Georgetown, where you will find Mr. Ellicott employed in making a survey and map of the Federal territory. The especial object of the asking of your aid is to have drawings of the particular grounds most likely to be approved for the site of the Federal town and buildings."

The credit of designing the plan of the City of Washington and of selecting the sites for the Capitol and the White House belongs to L'Enfant, although the views of President Washington materially affected the result. After L'Enfant's employment was discontinued, March 1, 1792, Major Ellicott prepared and published a plan, based, however, upon the work previously done by L'Enfant. It was L'Enfant who first used the term Capital City. Jefferson had called it the Federal Territory and the Federal Town; Washington, the Federal City; but the Commissioners, on September 9, 1791, wrote to L'Enfant: "We have agreed that the Federal District shall be called the Territory of Columbia, and the Federal City the City of Washington."

Acts of Congress of May 6, 1796, and April 18, 1798, provided for loans for the use of the "City of Washington in the District of Columbia," appellations subsequently employed in all national legislation relating to the seat of government. Another paragraph of the letter of the Commissioners reads: "We have also agreed that the streets be named alphabetically one way and numerically the other; the former to be divided into North and South, and the latter into East and West, numbers from the Capitol."

Over this rectangular arrangement, suggestive of Philadelphia, L'Enfant is said to have gridironed the plan of Versailles, France, naming the broad avenues thus formed after the States of the Union.

**The Terms of the Transfer of the Land.** On March 29, 1791, Washington, together with the three Commissioners and the two surveyors, L'Enfant and Ellicott, met the land-owners of the District at Georgetown and successfully negotiated with them respecting the transfer of their lands. They conveyed to the government all the streets and park without cost, reserved one-half of the lands for themselves and granted the other half to the United States, receiving about $66.67 per acre for

all spaces taken for public buildings. On the next day the President issued a proclamation defining clearly the boundaries of the District. A little later, on April 15, 1791, the corner-stone of the District was laid on the Virginia side.

**The Removal from Philadelphia to Washington.** On the first Monday in December, 1800, exclusive jurisdiction over the District of Columbia became vested in the Government of the United States. The Legislative branch was duly organized and in full operation at the City of Washington by the twenty-first day of November, 1800. President Adams reached Georgetown from Philadelphia on June 3, 1800, and by the 16th of the same month all the executive departments of the United States were in working order. A quorum of the first session of the Supreme Court of the United States, held in Washington, was secured on February 4, 1801.

**Early History.** Congress, by act of February 27, 1801, divided the District into the counties of Washington and of Alexandria, and on May 3, 1802, made the inhabitants of the City of Washington into a body corporate. At this point it must be borne in mind that this was the first attempt of any nation to build a capital in the woods and fields, whereas the capitals of the old-world nations had existed for centuries. As a result, many complaints arose both from our own people and from foreigners respecting the discomforts of the new city. So severe were the criticisms of the wretched streets and the unfinished buildings that the final outcome was often in doubt, and from time to time efforts to transfer the National Capital to some other locality seemed certain of success; but as the years progressed the natural advantages of the site became more evident, and the Capital remained where its noble founder had placed it, notwithstanding the necessity of rebuilding the Capitol, White House, and other public edifices after their destruction by the British in 1814.

Though Congress established a judicial system for the District of Columbia as early as 1801, it neglected to provide a form of government

for the entire District until 1871. In the western part of the District was an independent municipality, known as Georgetown, established in 1751 and incorporated in 1789; to the north and east, outside the limits of the Capital City, but still within the District, was a portion of Washington County, under the control of the Levy Court, a body composed of Justices of the Peace; while across the Potomac until 1846 was the County of Alexandria, with its incorporated city of the same name.

**Under the Mayors.** For seventy years the inhabitants of Washington alone, guided by its mayors, who were at first appointed by the President, but subsequently elected either by councils or by the people, undertook the impossible task not only of improving the streets and parks belonging to the Nation, which owned more than half the new city, but also of providing for the cost of all other municipal services, including police and fire protection; while Congress, in the main, limited its appropriations to its own public buildings, paid no taxes, or otherwise contributed to meet the expenses of the City of Washington or of the District of Columbia. Thus from the beginning of the century until after the Civil War the citizens of Washington tried to carry out the plans of the first President for a National Capital and at the same time to maintain local government. Although throughout this long period the City of Washington had been the centre of our national life, it was not until the Civil War had closed that the interest of the people throughout the nation was awakened to the welfare of the District of Columbia and the City of Washington, and a general desire created to make the capital worthy of the Nation. For the first time the people of the United States realized the magnitude of the plans of the noble founder and the possibility of their ultimate fulfilment.

**Slavery and the Slave Trade.** By the compromise in 1850 the slave trade, not slavery, was prohibited in the District of Columbia. Nearly eight months prior to the Emancipation Proclamation, slavery in the District was abolished by Act of Congress, approved April 16, 1862.

**The District as one of the Territories of the United States.** On February 21, 1871, Congress revoked the charters of the City of Washington, Georgetown, and the Levy Court

of the County of Washington, and erected a single territorial form of government, with a Governor, a Legislature, and a delegate to Congress. Within a few months thereafter, under the leadership of the energetic Governor, Alexander R. Shepherd, vast municipal improvements were under way, streets were regraded and paved, and extensive preparations made to beautify the city; but the large indebtedness incurred so alarmed the citizens and the members of both Houses of Congress, that, in 1874, the elective franchise was abolished, the municipal authority vested in three temporary commissioners, and provision made for preparing the framework of a permanent form of government in which the payment of the expenses should be divided equally between the United States and the District of Columbia.

**The First Permanent Government of the Entire District.** In four years the plan was perfected, and on July 1, 1878, the present local government went into effect, pursuant to an Act of Congress of June 11, 1878. While many of the citizens regret that in the District of Columbia there is no elective franchise and no representation in Congress, it is generally admitted that under the present form of government the civic progress of the Nation's Capital has been remarkable. This success is due in a large measure to the frequent hearings granted by the Commissioners to the citizens and to their associations. There is a tendency, moreover, in some parts of the country to govern cities by commission very much as the District of Columbia is now governed.

In Eckloff *v.* The District of Columbia, the United States Supreme Court, in commenting upon the Act of 1878, says:

"It is to be regarded as an organic act, intended to dispose of the

whole question of a government for this District. It is, as it were, a Constitution of the District. It is declared by its title to be an act to provide a permanent form of government. The word permanent is suggestive. It implies that prior systems had been temporary and provisional. As permanent, it is complete in itself. It is the system of government. The powers conferred are organic powers. We look to the act itself for their extent and limitations. It is not one act in a series of legislation, to be made to fit into the provisions of prior legislation, but it is a single complete act, the outcome of previous experiments, and the final judgment of Congress as to the system of a government which should obtain."

## THE PRESENT FORM OF GOVERNMENT IN THE DISTRICT OF COLUMBIA.

**Commissioners.** The government is administered by a board of three Commissioners, having equal powers and duties. Two of these, who must have been actual residents of the District for three years prior to their appointment, are appointed by the President from civil life, while the third is detailed from the Engineer Corps of the United States Army. He must be a captain, or officer of higher rank, who has served at least fifteen years in the Engineer Corps.

In addition to their executive functions the Commissioners may frame minor municipal regulations, as Congress, which by the Constitution is vested with exclusive legislative authority over the District of Columbia, has by statute delegated to them this privilege. They have arranged their duties into three groups, and have assigned one group to the supervision of each Commissioner, subject, if necessary, to revision by the whole Board. Each Commissioner receives a salary of $5000 per year, the two from civil life each giving a bond of $50,000. They are appointed for three years, but

remain in office until their successors have been appointed and have qualified. It is customary for the President to appoint one of the civil Commissioners from each of the two great political parties of the nation.

The group assigned to the Engineer Commissioner includes, as a rule, those departments that afford the best field for the exercise of his professional skill, such as highways, bridges, sewers, building construction, building inspection, etc. Three junior officers of the same corps may be detailed by the President of the United States to assist him in his duties, one of whom is empowered to act as Engineer Commissioner in his absence. This arrangement leaves the police, fire, health, insurance, and similar departments to the immediate management of one or the other of the civilian Commissioners. In 1906, Congress reorganized the police and fire departments, placing them upon a modern basis, and upon the recommendation of the Commissioners, beneficial laws affecting the other departments have been enacted, all looking toward the adornment of the capital or the health, comfort, and safety of its inhabitants.

**Contracts.** The Commissioners cannot make contracts or incur obligations without previous authority from Congress.

**Estimates.** By October 15 of each year they must submit to the Secretary of the Treasury an estimate of the amount necessary to defray the expenses of the government of the District for the next fiscal year. After stating to what extent this statute has his approval the Secretary submits the same to Congress.

**Revenue.** To the extent to which Congress shall approve of this estimate, it appropriates the amount of 50 per cent. thereof, and the remaining 50 per cent. must be levied upon

the taxable property and privileges other than the property of the United States. In this connection it is interesting to note that Washington proper contained until recently 6111 acres, of which 3095 belonged to the United States. The area, however, was increased to 6512 acres by the addition of the town of Georgetown, which was consolidated with the City of Washington, by Act of Congress, February 11, 1895. Subsequent condemnations have increased to some extent the holdings of the United States.

**The Judiciary.** The Judiciary of the District of Columbia consists of a Court of Appeals, a Supreme Court, a Police Court, a Juvenile Court, Justices of the Peace, and United States Commissioners.

The Court of Appeals consists of a Chief Justice and two associates, appointed by the President, and holding office during good behavior. It has jurisdiction in cases arising under the patent and copyright laws and it may also review the judgments and orders of the Supreme Court of the District. An appeal lies from the final judgment of the court to the Supreme Court of the United States, provided the matter in dispute exceeds $5000, and also regardless of the amount in dispute, if the validity of a patent or copyright, or, in fact, any Federal question is involved.

The Supreme Court of the District of Columbia consists of a Chief Justice and five associates, appointed by the President, and holding office during good behavior. It is a court of general jurisdiction, having cognizance of all crimes and offences committed within the District, and of all controversies between parties either of whom is a resident or can be found in the District. It has also the powers of the Circuit and District Courts of the United States, and is deemed a United States Court. The special terms of this

court are the Circuit Court, the Equity Court, the Criminal Court, the Probate Court, and the District Court of the United States. Appeals lie from this court to the Court of Appeals.

The Police Court consists of two judges, appointed by the President for the term of six years. They hold separate sessions and have jurisdiction over minor offences against the criminal laws and also of offences against municipal ordinances and regulations. The acts of each of the judges are deemed to be the acts of the court. Excepted cases may be reviewed in the Court of Appeals by means of a writ of error.

By Act of Congress, approved March 19, 1906, a Juvenile Court was created. The judge, appointed by the President for a term of six years, has practically the power of a judge of the Police Court, but for the most part his efforts are confined to the punishment or reformation of offenders below the age of seventeen. As the District now has a compulsory education law, he is especially empowered to deal with habitual truants and neglected children. First offenders are often placed on probation, with the hope of making them desirable citizens instead of permanent criminals. A playground has been established in connection with the Juvenile Court, and other novel methods devised to keep boys and girls from idleness. This "Progress City Playground," as it has been called, is but one of many public playgrounds in the District.

There are six Justices of the Peace in the District, who are appointed by the President for a term of four years. Each one has a subdistrict over which he has jurisdiction in civil cases involving $300 or less, but such jurisdiction is exclusive to the amount of $50 only, and concurrent with the Supreme

Court when the amount claimed for debt or damages exceeds $50. Appeals lie to the Supreme Court of the District.

A few United States Commissioners are appointed by the Supreme Court of the District, whose chief duties are to investigate alleged violations of United States laws and infractions of treaty provisions. They may issue warrants, administer oaths, and examine witnesses, with a view to determining whether persons accused should be released or committed to await the action of the grand jury. They do not receive an annual salary, but derive their compensation from fees, which are fixed by law.

**The Laws.** By Act of Congress, February 27, 1801, the laws of the State of Maryland were continued in the District of Columbia. The Maryland law was based upon the common law of England and such British statutes as were applicable to colonial conditions, modified by provincial and State enactments. This Maryland law, as adopted, has in turn been modified by many subsequent Acts of Congress, by municipal laws and ordinances when Washington was under the charge of Mayor or Governor, by the authorized regulations of the Commissioners, and finally by a code of law with numerous amendments.

**The Public Schools.** The affairs of the public schools are administered by a Board of Education, consisting of nine members, appointed for a period of three years each by the Judges of the Supreme Court of the District of Columbia, one-third of the membership of the Board changing on June 30 of each year. The nine members, three of whom are women, must all have been *bona fide* residents of the District for at least five years. They serve without compensation and determine all questions of general policy relating to the schools, but expenditures of public funds must be made

and accounted for, as provided by law, under the direction and control of the Commissioners. The Board of Education must transmit annually to the Commissioners an estimate of the amount of money required for the schools for the ensuing year, and the Commissioners transmit the same to Congress, with the other estimates heretofore mentioned, making such recommendations as they may deem proper. A superintendent is appointed by the Board, who holds his office for three years and has direction of all matters pertaining to instruction. Upon his written recommendation the Board appoints one white assistant superintendent for the white schools and one colored assistant superintendent for the colored schools. Appointments, promotions, transfers, and dismissals are made in a like manner upon the written recommendation of the superintendent. This applies to all officers and teachers, except the secretary, who is chosen by the direct vote of the Board. In making his written recommendations, in certain cases prescribed by law, he is guided by the advice of his supervisory officers or of the Board of Examiners. The Board of Education arranges all teachers in definite classes and groups. As a rule, the public school buildings have been named in honor of deceased Presidents of the United States, Mayors of Washington, or of Georgetown, Commissioners of the District and other famous Americans, such as Benjamin Franklin, Joseph Henry, George Peabody, Daniel Webster, and others.

**Militia.** The District of Columbia has an excellent militia force, including a naval reserve, under the command of a brigadier-general appointed by the President. Its adjutant-general is an officer of the United States Army, detailed to assist the commanding officer. Under an Act of Congress of March 1, 1889, every male citizen of the District between

the ages of eighteen and forty-five is subject to enrolment, with specified exceptions. The provisions of a recent enactment known as the "Dick Bill," that places the National Guard of the several States upon an improved footing, extend also to the troops of the District.

**The Future of the National Capital.** In consequence of the care now exercised by Congress most of the improvements are made to harmonize with one general plan that looks to the cost and the effect in the future rather than to a mere economical expenditure to-day. This is indeed hopeful. The very nature of the capital makes its own history part of the history of the Nation. As grows the Nation, so will grow its head city—its capital. A broad patriotism requires that not only the man who dwells at Washington, but every American citizen throughout the land should do his part in making and in keeping the capital of the United States the most beautiful capital in the world.

# APPENDIX.

## THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

### PREAMBLE.

We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE I.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. [1] The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

[2] No person shall be a Representative who shall not have attained to the Age of twenty five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

[Note.—The small figures in brackets are not in the original, but have been added subsequently, to mark the different clauses in a section. In reprinting the Constitution here, the spelling, punctuation, and capitalization of the original have been preserved ]

[3] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

[4] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[5] The House of Representatives shall chuse their Speaker and other officers; and shall have the sole Power of Impeachment.

SECTION 3. [1] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[3] No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of honour, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. [1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[3] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4] Neither House, during the Session of Congress, shall, without the

Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. [1] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other Place.

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. [1] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

[2] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevents its Return, in which Case it shall not be a Law.

[3] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved

by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION 8. The Congress shall have Power

[1] To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2] To borrow Money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7] To establish Post Offices and post Roads;

[8] To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[9] To constitute Tribunals inferior to the supreme Court;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

[11] To declare War, grant letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than Two Years;

[13] To provide and maintain a Navy;

[14] To make Rules for the Government and Regulation of the land and naval Forces;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the Discipline prescribed by Congress;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful Buildings;—And,

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION 9. [1] The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person.

[2] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[3] No Bill of Attainder or ex post facto Law shall be passed.

[4] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[5] No Tax or Duty shall be laid on Articles exported from any State.

[6] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

[7] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

[8] No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION 10. [1] No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money;

emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[2] No State shall, without the consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

[3] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

## ARTICLE II.

SECTION 1. [1] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

[2] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

* [3] The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a List of all the persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall

* This clause has been superseded by the 12th amendment.

be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a Quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

[4] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

[5] No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[6] In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

[7] The President shall, at stated Times, receive for his services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[8] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—

"I do solemnly swear (or affirm) that I will faithfully execute the

"Office of President of the United States, and will to the best of my "Ability, preserve, protect and defend the Constitution of the United "States."

SECTION 2. [1] The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

[2] He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[3] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

## ARTICLE III.

SECTION 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation which shall not be diminished during their Continuance in Office.

SECTION 2. [1] The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

[3] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. [1] Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

## ARTICLE IV.

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

SECTION 2. [1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

[2] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[3] No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION 3. [1] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[2] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion, and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

## ARTICLE V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall

call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year one thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

## ARTICLE VI.

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made; or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## ARTICLE VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. **In Witness** whereof We have hereunto subscribed our Names,

G° WASHINGTON—
*Presidt and deputy from Virginia*

NEW HAMPSHIRE.

JOHN LANGDON — NICHOLAS GILMAN

MASSACHUSETTS.

NATHANIEL GORHAM — RUFUS KING

CONNECTICUT.

WM SAML JOHNSON — ROGER SHERMAN

NEW YORK.

ALEXANDER HAMILTON

NEW JERSEY.

WIL LIVINGSTON — DAVID BREARLEY
WM PATERSON — JONA DAYTON

PENNSYLVANIA.

B FRANKLIN — THOMAS MIFFLIN
ROBT MORRIS — GEO CLYMER
THO FITZSIMONS — JARED INGERSOLL
JAMES WILSON — GOUV MORRIS

DELAWARE.

GEO READ — GUNNING BEDFORD, JUN'R
JOHN DICKINSON — RICHARD BASSETT
JACO BROOM

MARYLAND.

JAMES M'HENRY — DAN OF ST THOS JENIFER
DANL CARROLL

VIRGINIA.

JOHN BLAIR — JAMES MADISON, JR

NORTH CAROLINA.

WM BLOUNT — RICH'D DOBBS SPAIGHT
HU WILLIAMSON

SOUTH CAROLINA.

J RUTLEDGE — CHARLES COTESWORTH PINCKNEY
CHARLES PINCKNEY — PIERCE BUTLER

GEORGIA.

WILLIAM FEW — ABR BALDWIN

Attest: WILLIAM JACKSON, *Secretary.*

## Articles in Addition to, and Amendment of, the Constitution of the United States of America,

*Proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.*

### (ARTICLE I.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

### (ARTICLE II.)

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### (ARTICLE III.)

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

### (ARTICLE IV.)

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### (ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(ARTICLE VI.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have Compulsory process for obtaining Witnesses in his favour, and to have the Assistance of Counsel for his defence.

(ARTICLE VII.)

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

(ARTICLE VIII.)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

(ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

(ARTICLE XI.)

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

(ARTICLE XII.)

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be

an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

## (ARTICLE XIII.)

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sect. 2. Congress shall have power to enforce this article by appropriate legislation.

## (ARTICLE XIV.)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECT. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.

SECT. 3. No person shall be a senator or representative in Congress or elector of president or vice-president, or hold any office, civil or military under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECT. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article

## (ARTICLE XV.)

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, or account of race, color, or previous condition of servitude.

SECT. 2. The Congress shall have power to enforce this article by appropriate legislation.

# LAW OF SUCCESSION TO THE PRESIDENCY.

*An act to provide for the performance of the duties of the office of President in case of the removal, death, resignation, or inability both of the President and Vice-President.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Treasury, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of War, or if there be none, or in case of his removal, death, resignation, or inability, then the Attorney-General, or if there be none, or in case of his removal, death, resignation, or inability, then the Postmaster-General, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Navy, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Interior, shall act as President until the disability of the President or Vice-President is removed or a President shall be elected: *Provided,* That whenever the powers and duties of the office of President of the United States shall devolve upon any of the persons named herein, if Congress be not then in session, or if it would not meet in accordance with law within twenty days thereafter, it shall be the duty of the person upon whom said powers and duties shall devolve to issue a proclamation convening Congress in extraordinary session, giving twenty days' notice of the time of meeting.

SEC. 2. That the preceding section shall only be held to describe and apply to such officers as shall have been appointed by the advice and consent of the Senate to the offices therein named, and such as are eligible to the office of President under the Constitution, and not under

impeachment by the House of Representatives of the United States at the time the powers and duties of the office shall devolve upon them respectively.

SEC. 3. That sections one hundred and forty-six, one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine, and one hundred and fifty of the Revised Statues are hereby repealed.

Approved, January 19, 1886.

# ELECTORAL COUNT BILL.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the legislature of such State shall direct.

SEC. 2. That if any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to the said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

SEC. 3. That it shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of electors in such State, by the final ascertainment under and in pursuance of the laws of such State providing for such ascertainment, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by the preceding section to meet, the same certificate in triplicate, under the seal of the State; and such certificate shall be inclosed and transmitted by the electors at the same time and in the same manner as is provided by law for transmitting by such electors to

the seat of Government the lists of all persons voted for as President and of all persons voted for as Vice-President; and section one hundred and thirty-six of the Revised Statutes is hereby repealed; and if there shall have been any final determination in a State of a controversy or contest as provided for in section two of this act, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such determination in form and manner as the same shall have been made; and the Secretary of State of the United States, as soon as practicable after the receipt at the State Department of each of the certificates hereinbefore directed to be transmitted to the Secretary of State, shall publish, in such public newspaper as he shall designate, such certificates in full; and at the first meeting of Congress thereafter he shall transmit to the two Houses of Congress copies in full of each and every such certificate so received theretofore at the State Department.

SEC. 4. That Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall

state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section three of this act from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section two of this act to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section two of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its laws; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the

electors whose appointment shall have been certified by the Executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 5. That while the two Houses shall be in meeting as provided in this act the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw.

SEC. 6. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

SEC. 7. That at such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

Approved, February 3, 1887.

# DECLARATION OF INDEPENDENCE.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed; and that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments, long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of the colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operations till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose, obstructing the laws of naturalization of foreigners, refusing to pass others to encourage their migration thither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us in time of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation.

For quartering large bodies of armed troops among us.

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states.

For cutting off our trade with all parts of the world.

For imposing taxes on us without our consent.

For depriving us, in many cases, of the benefit of trial by jury.

For transporting us beyond seas, to be tried for pretended offences.

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies.

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments.

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injuries. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of the attempts by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement

here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britian is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do. And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

JOHN HANCOCK.

*New Hampshire.*

JOSIAH BARTLETT, WILLIAM WHIPPLE,
MATTHEW THORNTON.

*Massachusetts Bay.*

SAMUEL ADAMS, ROBERT TREAT PAINE,
JOHN ADAMS, ELBRIDGE GERRY.

*Rhode Island.*

STEPHEN HOPKINS, WILLIAM ELLERY.

*Connecticut.*

ROGER SHERMAN, WILLIAM WILLIAMS,
SAMUEL HUNTINGTON, OLIVER WOLCOTT.

*New York.*

WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

*New Jersey.*

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HART,
ABRAHAM CLARK.

*Pennsylvania.*

ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

*Delaware.*

CAESAR RODNEY
GEORGE READ,
THOMAS M'KEAN.

*Maryland.*

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL, of Carrollton.

*Virginia.*

GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, Jr.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

*North Carolina.*

WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

*South Carolina.*

EDWARD RUTLEDGE,
THOMAS HEYWARD, Jr.,
THOMAS LYNCH, Jr.,
ARTHUR MIDDLETON.

*Georgia.*

BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

## Presidents of the United States.

| Inaugurated. | Name. | Politics. | State. | Born. | Died. | Term of service. |
|---|---|---|---|---|---|---|
| 1789 | George Washington, | Fed. | Va. | 1732 | 1799 | 8 yrs. |
| 1797 | John Adams, | Fed. | Mass. | 1735 | 1826 | 4 yrs. |
| 1801 | Thomas Jefferson, | Rep. | Va. | 1743 | 1826 | 8 yrs. |
| 1809 | James Madison, | Rep. | Va. | 1751 | 1836 | 8 yrs. |
| 1817 | James Monroe, | Rep. | Va. | 1758 | 1831 | 8 yrs. |
| 1825 | John Quincy Adams, | Rep. | Mass. | 1767 | 1848 | 4 yrs. |
| 1829 | Andrew Jackson, | Dem. | Tenn. | 1767 | 1845 | 8 yrs. |
| 1837 | Martin Van Buren, | Dem. | N. Y. | 1782 | 1862 | 4 yrs. |
| 1841 | William Henry Harrison,[1] | Whig | Ohio | 1773 | 1841 | 1 month. |
| 1841 | John Tyler, | Dem. | Va. | 1790 | 1862 | 3 yrs. 11 mos. |
| 1845 | James Knox Polk, | Dem. | Tenn. | 1795 | 1849 | 4 yrs. |
| 1849 | Zachary Taylor,[2] | Whig | La. | 1784 | 1850 | 1 yr. 4 mos. 5 d. |
| 1850 | Millard Fillmore, | Whig | N. Y. | 1800 | 1874 | 2 yrs. 7 mos. 26 d. |
| 1853 | Franklin Pierce, | Dem. | N. H. | 1804 | 1869 | 4 yrs. |
| 1857 | James Buchanan, | Dem. | Pa. | 1791 | 1868 | 4 yrs. |
| 1861 | Abraham Lincoln,[3] | Rep. | Ill. | 1809 | 1865 | 4 yrs. 1 mos. 10 d. |
| 1865 | Andrew Johnson, | Rep. | Tenn. | 1808 | 1875 | 3 yrs. 10 mos, 20 d |
| 1869 | Ulysses S. Grant, | Rep. | Ill. | 1822 | 1885 | 8 yrs. |
| 1877 | Rutherford B. Hayes, | Rep. | Ohio. | 1822 | 1893 | 4 yrs. |
| 1881 | James A. Garfield,[4] | Rep. | Ohio. | 1831 | 1881 | 6 mos. 15 d. |
| 1881 | Chester A. Arthur, | Rep. | N. Y. | 1830 | 1886 | 3 yrs. 5 mos. 15 d. |
| 1885 | Grover Cleveland, | Dem. | N. Y. | 1837 | ..... | 4 yrs. |
| 1889 | Benjamin Harrison, | Rep. | Ind. | 1833 | 1901 | 4 yrs. |
| 1893 | Grover Cleveland, | Dem. | N. Y. | 1837 | ..... | 4 yrs. |
| 1897 | William McKinley,[5] | Rep. | Ohio. | 1843 | 1901 | 4 yrs. 6 mos. 10 d. |
| 1901 | Theodore Roosevelt, | Rep. | N. Y. | 1858 | | |

[1] Died in office, April 4, 1841, when Vice-President Tyler succeeded him, taking the oath of office April 6, 1841.

[2] Died in office, July 9, 1850, when Vice-President Fillmore succeeded him, taking the oath of office July 10, 1850.

[3] Assassinated April 14, 1865, when Vice-President Johnson succeeded him, taking the oath of office April 15, 1865.

[4] Assassinated July 2, 1881, and died September 19, 1881, when Vice-President Arthur succeeded him, taking the oath of office at New York, September 20, 1881, and again formally at Washington, September 22, 1881.

[5] Assassinated September 6, 1901, and died September 14, 1901. Vice-President Roosevelt succeeded him, taking the oath of office at Buffalo, N. Y., on September 14, 1901.

## Vice-Presidents of the United States.

| Inaugurated. | Name. | Politics. | State. | Born. | Died. | Term of service. |
|---|---|---|---|---|---|---|
| 1789 | John Adams, | Fed. | Mass. | 1735 | 1826 | 8 yrs. |
| 1797 | Thomas Jefferson, | Rep. | Va | 1743 | 1826 | 4 yrs. |
| 1801 | Aaron Burr, | Rep. | N. Y. | 1756 | 1836 | 4 yrs. |
| 1805 | George Clinton,[1] | Rep. | N. Y. | 1739 | 1812 | 7 yrs. 1 mo. 16 d. |
| 1813 | Elbridge Gerry,[1] | Rep. | Mass. | 1744 | 1814 | 1 yr. 8 mos. 19 d. |
| 1817 | Daniel D. Tomkins, | Rep. | N. Y. | 1774 | 1825 | 8 yrs. |
| 1825 | John C. Calhoun,[2] | Rep. | S. C | 1782 | 1850 | 7 yrs. 9 mos. 24 d. |
| 1833 | Martin Van Buren, | Dem. | N. Y. | 1782 | 1862 | 4 yrs. |
| 1837 | Richard M. Johnson, | Dem. | Ky. | 1780 | 1850 | 4 yrs. |
| 1841 | John Tyler,[3] | Dem. | Va. | 1790 | 1862 | 1 month. |
| 1845 | George M. Dallas, | Dem. | Pa. | 1792 | 1864 | 4 yrs. |
| 1849 | Millard Fillmore,[4] | Whig | N. Y. | 1800 | 1874 | 1 yr. 4 mos. 4 d. |
| 1853 | William R. King,[1] | Dem. | Ala. | 1786 | 1853 | 1 mo. 14 d. |
| 1857 | John C. Breckenridge, | Dem. | Ky. | 1821 | 1875 | 4 yrs. |
| 1861 | Hannibal Hamlin, | Rep. | Me. | 1809 | 1891 | 4 yrs. |
| 1865 | Andrew Johnson,[5] | Rep. | Tenn. | 1808 | 1875 | 1 mo. 11 d. |
| 1869 | Schuyler Colfax, | Rep. | Ind. | 1823 | 1885 | 4 yrs. |
| 1873 | Henry Wilson,[1] | Rep. | Mass. | 1812 | 1875 | 2 yrs. 8 mos. 18 d. |
| 1877 | William A. Wheeler, | Rep. | N. Y. | 1819 | 1887 | 4 yrs. |
| 1881 | Chester A. Arthur,[6] | Rep. | N. Y. | 1830 | 1886 | 6 mos. 15 d. |
| 1885 | Thomas A. Hendricks,[1] | Dem. | Ind. | 1819 | 1885 | 8 mos. 21 d. |
| 1889 | Levi P. Morton, | Rep. | N. Y. | 1824 | ..... | 4 yrs. |
| 1893 | Adlai E. Stevenson, | Dem. | Ill. | 1835 | ..... | 4 yrs. |
| 1897 | Garret A. Hobart,[1] | Rep. | N. J. | 1844 | 1899 | 2 yrs. 8 mos. 17 d. |
| 1901 | Theodore Roosevelt,[7] | Rep. | N. Y. | 1858 | ..... | 6 mos. 10 d. |
| 1905 | Charles W. Fairbanks, | Rep. | Ind. | 1852 | | |

## Chief Justices of the United States Supreme Court.

| Term of service. | Name. | State. | Born. | Died. |
|---|---|---|---|---|
| 1789–1795 . . . | John Jay, | New York, | 1745 | 1829 |
| 1795–1795 . . . | John Rutledge, | South Carolina, | 1739 | 1800 |
| 1796–1800 . . . | Oliver Ellsworth, | Connecticut, | 1745 | 1807 |
| 1801–1835 . . . | John Marshall, | Virginia, | 1755 | 1835 |
| 1836–1864 . . . | Roger B. Taney, | Maryland, | 1777 | 1864 |
| 1864–1873 . . . | Salmon P. Chase, | Ohio, | 1808 | 1873 |
| 1874–1888 . . . | Morrison R. Waite, | Ohio, | 1816 | 1888 |
| 1888 . . . | Melville W. Fuller, | Illinois, | 1833 | |

[1] Died in office.
[2] Resigned December 28, 1832.
[3] Became President by death of Harrison.
[4] Became President by death of Taylor.
[5] Became President by death of Lincoln.
[6] Became President by death of Garfield.
[7] Became President by death of McKinley.

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